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81ST CONGRESS } HOUSE OF REPRESENTATIVES { DOCUMENT
2d Session } { No. 505

REORGANIZATION PLAN NO. 1 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 1 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF THE TREASURY

MARCH 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of the Treasury. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Administrative Assistant Secretary of the Treasury. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 1 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF THE TREASURY

SECTION 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, and subject to the provisions of subsection (c) of this section, there are hereby transferred to the Secretary of the Treasury all functions of all other officers of the Department of the Treasury and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of the Treasury.

(c) Notwithstanding the transfer to the Secretary of the Treasury of the functions of the United States Coast Guard and of the functions of the Commandant of the Coast Guard, effected by the provisions of subsection (a) of this section, such Coast Guard, together with the said functions, shall operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in section 1 of the Act of January 28, 1915 (ch. 20, 38 Stat. 800, as amended, 14 U. S. C. 1).

SEC. 2. *Performance of functions of Secretary.*—The Secretary of the Treasury may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of the Treasury of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

SEC. 3. *Administrative Assistant Secretary.*—There shall be in the Department of the Treasury an Administrative Assistant Secretary of the Treasury, who shall be appointed, with the approval of the President, by the Secretary of the Treasury under the classified civil service, who shall perform such duties as the Secretary of the Treasury shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 4. *Incidental transfers.*—The Secretary of the Treasury may from time to time effect such transfers within the Department of the Treasury of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

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81ST CONGRESS
2D SESSION

S. RES. 247

IN THE SENATE OF THE UNITED STATES

MARCH 31 (legislative day, MARCH 29), 1950

Mr. CAPEHART submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 1 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 247

RESOLUTION

Disapproving Reorganization Plan
Numbered 1.

By Mr. CAPEHART

MARCH 31 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

81ST CONGRESS
2D SESSION

S. RES. 246

IN THE SENATE OF THE UNITED STATES

MARCH 31 (legislative day, MARCH 29), 1950

Mr. ROBERTSON submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 1 of 1950, transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 246

RESOLUTION

Disapproving Reorganization Plan Numbered 1 of 1950.

By Mr. ROBERTSON

MARCH 31 (legislative day, MARCH 29), 1950

Referred to the Committee on Expenditures in the Executive Departments

Calendar No. 1528

81ST CONGRESS, 2d Session | SENATE | REPORT No. 1518

REORGANIZATION PLAN NO. 1 OF 1950, PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF THE TREASURY

APRIL 25 (legislative day, MARCH 29), 1950.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

Together with the

MINORITY VIEWS

[To accompany S. Res. 246]

The Committee on Expenditures in the Executive Departments, having had under consideration two identical Senate Resolutions 246 and 247 which provide that the Senate does not favor Reorganization Plan No. 1 of 1950, reports favorably on Senate Resolution 246, and recommends that it be approved by the Senate.

PROVISIONS AND EFFECT OF PLAN NO. 1 OF 1950

Section 1 of plan No. 1 transfers to the Secretary all functions scattered throughout the Department of the Treasury, except the functions of hearing examiners, and except the operations of the Coast Guard when, in time of war or otherwise at the discretion of the President, it operates as a part of the Navy. The three other sections of the plan authorize the Secretary to delegate functions; to appoint an Administrative Assistant Secretary, with the approval of the President, under the classified civil service at an annual salary of $14,000; and to make such transfer of records, property, personnel, and funds as are required to carry out this plan. The complete text of plan No. 1 is given in appendix A.

The statutes controlling the Treasury Department lodge almost all departmental functions in its operating units. Plan No. 1 would shift to the Secretary the powers now scattered among 9 of the 10 following operating units (No. 9, Division of Savings Bonds, is already directly under the Secretary's control), arranged in order of the number of employees on January 1, 1950: [1]

[1] Organization of Executive Departments and Agencies, Committee Report No. 9, Senate Committee on Expenditures in the Executive Departments, January 1, 1950.

	Number of employees
1. Bureau of Internal Revenue	53, 068
2. Fiscal Service	9, 907
3. Bureau of Customs	8, 393
4. Bureau of Engraving and Printing	5, 908
5. Coast Guard	4, 963
6. Office of the Comptroller of the Currency	1, 165
7. Bureau of the Mint	1, 137
8. Secret Service	737
9. Division of Savings Bonds	513
10. Bureau of Narcotics	280
Total for Department	86, 990

Plan No. 1 would authorize the Secretary of the Treasury to review the organization of any or all of the 10 major operating units listed above. He would be empowered to make changes designed to achieve greater efficiency and economy.

Under the provisions of the Reorganization Act of 1949, approved June 20, 1949 (Public Law 109, 81st Cong.), this plan will take effect upon the expiration of 60 calendar days of continuous session of Congress after the plan is transmitted, unless a majority of the authorized membership of either of the two Houses adopts a resolution of disapproval. Because the House of Representatives has been in interrupted session, the following provision of section 6 (b) of the act applies.

> In the computation of the 60-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain.

The House of Representatives, with the approval of the Senate, having been in recess from April 6 to April 18, 1950, under authority of House Concurrent Resolution No. 193, the effective date of plan No. 1 will be May 24, 1950, unless it is disapproved.

Senate Resolution 246, which disapproves plan No. 1, has been submitted in the form prescribed by the act, has been approved by the committee by a vote of 8 to 3, and is herewith submitted to the Senate for consideration. Those voting in the affirmative were Senators McClellan (chairman), Hoey, O'Conor, McCarthy, Ives, Mundt, Smith of Maine, and Schoeppel. Those opposed were Senators Humphrey, Leahy, and Benton. Senators Eastland and Vandenberg abstained.

SUMMARY OF COMMITTEE'S FINDINGS

Hearings were held on Senate Resolution 246 and Senate Resolution 247, during which testimony was submitted to the committee by 2 witnesses in opposition to the resolutions of disapproval, and 12 favoring their adoption. In reporting the subject resolution favorably, the majority of the committee agrees substantially with the views expressed by opponents to plan No. 1, which are summarized as follows:

1. The effect of the plan would be to destroy the present independence of action and broad powers of the Comptroller of the Currency to the detriment of the national banking system.

2. It is contrary to the accepted principle established by Congress that the exercise of the quasi-judicial functions, now administered by

the Comptroller of the Currency, should not be controlled by the President. (See p. 43 of hearings.)

3. The Congress indicated its intention that the Office of the Comptroller of the Currency should remain independent of control by the Secretary of the Treasury, by adopting changes in the present law in 1935 in which it was provided that the appointment of the Comptroller of the Currency must be made solely by the President with the advice and consent of the Senate, and not on the recommendation of the Secretary of the Treasury.

4. The propriety of maintaining the independent status of the Comptroller's Office is further emphasized by the fact that it is financially supported by contributions from member banks. No part of its expenditures are paid from public funds.

5. By incorporating two features in existing law, designed to safeguard the independence of the Comptroller and prevent political or other pressures from influencing his decisions, the Congress provided (*a*) that the term of the Comptroller should be for a period of 5 years and not concurrent with the tenure of office of the Secretary of the Treasury, or with the term of the President; and (*b*) that the Comptroller shall be prohibited from accepting employment with any insured bank for 2 years after he leaves office.

6. Reorganization Plan No. 1, particularly in respect of the Office of the Comptroller of the Currency, is not in accord with the objectives of economy and efficiency as recommended by the Hoover Commission. The Hoover Commission made no specific recommendation relating directly to the Office of the Comptroller of the Currency.

7. The Secretary of the Treasury now has all the statutory authority he needs to coordinate thoroughly the work of his Department so as to achieve the efficiency and economy recommended by the Hoover Commission. It follows, therefore, that the approval of Reorganization Plan No. 1 is not necessary to achieve the primary purposes recommended by the Hoover Commission, as enumerated by the proponents of the plan. (See p. 33 of hearings.)

8. The transfer of the functions of the Comptroller of the Currency to the Secretary of the Treasury will not result in improved administration. The adoption of Reorganization Plan No. 1 would not conform to the Hoover Commission recommendations regarding the grouping, coordinating, and consolidating of agencies of the Government under functions or major-purpose activities. None of the duties of the Comptroller of the Currency are related directly to the administrative, fiscal, public debt, or other functions of the Department of the Treasury, as may be seen by a reading of the act creating the Comptroller's Office in 1863.

9. The transfer of the Comptroller's Office and functions to the Secretary of the Treasury would not reduce the number of Federal agencies by consolidation, or abolition, as recommended by the Hoover Commission.

10. There is no overlapping or duplication of effort insofar as the operations of the Comptroller's Office is concerned, since they relate entirely to the chartering and supervising of national banks, and are distinct and separate from any functions of the Secretary of the Treasury.

To this extent, and to the extent outlined in Nos. 8 and 9 above, the plan does not conform to the purposes of the Reorganization Act of 1949, as provided in section 2 thereof.

11. The plan would shift the functions of the present Comptroller of the Currency to the Secretary of the Treasury, who could in turn reallocate such functions elsewhere within the Department in any manner he might see fit. There was disagreement among the witnesses as to whether this plan would affect funds contributed by member banks under which the Office operates. Some witnesses contended that the Secretary of the Treasury could transfer these funds for other purposes which have no relation whatever to those activities. The proponents of the plan contended that such funds could not be so transferred.

12. The transfer of the functions of the Comptroller of the Currency to the Secretary of the Treasury would make the latter officer the spokesman for national banks in their dealings and relations with other Federal supervisory authorities in the banking field and their contacts with State-chartered banks. The effect would be that the Comptroller would no longer have sufficient initiative, authority, and independence of action to continue these functions on the basis intended by Congress. The dual banking system would be disrupted since the plan authorizes the Secretary of the Treasury, if he so desired, to serve as a member of the Board of Directors of the Federal Deposit Insurance Corporation. He could thus influence, for political or other reasons, policies affecting not only national banks but also State-chartered banks insured by the FDIC as well.

The effect of plan No. 1 would be to permit the Secretary of the Treasury, under powers granted to him therein, to emasculate the Office of the Comptroller of the Currency. This would adversely affect the status of some 5,000 national banks representing about 56 percent of the commercial banking resources of the country which have operated heretofore under a safeguarded national banking system established by Congress 86 years ago.

HOOVER COMMISSION RECOMMENDATIONS

The paramount importance placed by the Hoover Commission on clarity of lines of authority is demonstrated time and again in its reports. As indicated by the following excerpts, that major thesis is first developed in general terms in the text and recommendations of Report No. 1 on General Management, and is then followed up in the separate reports dealing with individual functions or agencies of the Federal Government.

Report No. 1 on General Management

The introductory chapter of Hoover Commission Report No. 1 on General Management opens with the paragraphs:

> In this part of its report, the Commission on Organization of the Executive Branch of the Government deals with the essentials of effective organization of the executive branch. Without these essentials, all other steps to improve organization and management are doomed to failure * * *.
>
> Definite authority at the top, a clear line of authority from top to bottom, and adequate staff aids to the exercise of authority do not exist. Authority is diffused, lines of authority are confused, staff services are insufficient. Consequently, responsibility and accountability are impaired.
>
> To remedy this situation is the first and essential step in the search for efficiency and economy in the executive branch of the Federal Government.

Plan No. 1, like plans No. 2 through No. 6, does not transfer any organization units to new locations. Instead, they all develop for the

designated Cabinet departments the four following numbered recommendations in Hoover Commission Report No. 1 on General Management, which are concerned with centralization of functions and an adequate supervisory staff:

14. Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.
16. Department heads must have adequate staff assistance if they are to achieve efficiency and economy in departmental operations.
18. Each department head should receive from the Congress administrative authority to organize his department * * *
20. We recommend that the department head should be given authority to determine the organization within his department * * *

Report No. 11 on Treasury Department

These recommendations of general applicability are then specifically developed for the Treasury Department in the Hoover Commission Report No. 11 on the Treasury Department, as follows:

In our first report we urged that good departmental administration requires that the Secretary have authority from the Congress to organize and control his organization, and that independent authority should not be granted directly to subordinates.

CONFORMANCE TO HOOVER COMMISSION RECOMMENDATIONS

All witnesses appearing before the committee, for or against plan No. 1, were in full accord with the above-outlined recommendations, and endorsed the general provisions relating to these over-all objectives.

As has been outlined hereinbefore in this report, opposition to Reorganization Plan No. 1 was centered on the proposal to make the Office of the Comptroller of the Currency subordinate to the Secretary of the Treasury, which would have the effect of changing basic law contrary to the intent of Congress, and is not in accord with any specific recommendation of the Hoover Commission. The following is an extract from the Annual Report of the Secretary of the Treasury:

The Bureau of the Comptroller of the Currency is responsible for the execution of laws relating to the supervision of national banking associations. Duties of the office include those incident to the formation and chartering of new national banking associations, the establishment of branch banks, the consolidation of banks, the conversion of State banks into national banks, the issuance and retirement of preferred stock, and the issuance of Federal Reserve notes.

The Hoover Commission did specifically recommend in Report No. 11 that the "Reconstruction Finance Corporation, Export-Import Bank, and Federal Deposit Insurance Corporation, independent agencies reporting directly to the President," should be transferred to the Department of the Treasury on the premise that "the President cannot give the time necessary for their supervision," and that "they are accountable to nobody." These recommended transfers were not included in the plan, and were not the subject of discussion at the hearings.

TESTIMONY IN SUPPORT OF PLAN NO. 1 OF 1950

There were two witnesses who appeared before the committee at its hearings on April 11 and 12, in opposition to the resolution disapproving Reorganization Plan No. 1 of 1950. They were Frederick J. Lawton,

Director of the Budget, and Robert L. L. McCormick, research director for the Citizens Committee for the Hoover Report.

These witnesses reiterated the points raised in the President's messages accompanying the plan, contending that:

1. The plan conforms to one of the most basic recommendations of the Commission on Organization of the Executive Branch of the Government with respect to the administration of executive departments.

2. It establishes clear lines of authority and accountability within the Department of the Treasury, and corrects a great weakness in the executive branch in the "line of command and supervision from the President down through the department heads to every employee, and the line of responsibility from each employee of the executive branch up to the President," as recommended by the Hoover Commission. The plan enables the Secretary to make improvements in the internal organization of the Treasury Department and provides more adequate assistance to manage departmental affairs properly.

With these two points there was general agreement on the part of all witnesses appearing before the committee. The issue has been developed hereinbefore as regards the transfer of the functions of the Comptroller of the Currency to the Secretary of the Treasury. In regard to this phase of the plan, the proponents took the following position:

1. Those phases of plan No. 1, giving rise to objections centering on the Office of the Comptroller of the Currency, provide important general advantages outweighing any valid opposition to its provisions, and affect the Comptroller less drastically than "has been suggested."

2. Vesting ultimate authority in the Secretary as proposed under plan No. 1, which was objected to on the part of other witnesses favoring the resolution of disapproval, does not involve any real dangers. According to the Director of the Bureau of the Budget, there is no basis for the expressed "fears which, if translated into the case of every other bureau of Government, would make the Government even more unmanageable than it is today."

3. The plan would not destroy the independence of the Comptroller of the Currency because such "alleged" independence is a "fiction." In this connection the Director of the Bureau of the Budget contended that the Secretary of the Treasury now has the responsibility for appointing and promoting the staff, including the Deputy Comptrollers, and that the President has the authority "to fire anybody in the executive branch provided it isn't a political firing of a civil-service employee."

BASIS OF OPPOSITION TO PLAN NO. 1 OF 1950

The evidence submitted to the committee by the various witnesses in opposition to plan No. 1 uniformly stressed opposition to the proposed transfer of the functions of the Comptroller of the Currency to the Secretary of the Treasury. The following is a brief summary of such testimony presented at the hearings:

Senator Burnet R. Maybank, chairman of the Senate Committee on Banking and Currency, submitted to the committee a statement on behalf of that committee, adopted without a dissenting vote, expressing opposition to the plan and approval of Senate Resolution

246. (The statement is given in full on p. 7 of the hearings on April 11, 1950.)

Testimony was also submitted to the committee by the sponsors of the two identical resolutions of disapproval, Senator A. Willis Robertson of Virginia (S. Res. 246), and Senator Homer E. Capehart of Indiana (S. Res. 247), both of whom objected to the plan insofar as it proposed to transfer the functions of the Comptroller of the Currency to the Secretary of the Treasury. These witnesses, as well as others following, stressed the fact that there was no apprehension as to the present Secretary of the Treasury abusing such authority in relation to its application to the national banks, but contended that it would establish a permanent situation and vesting powers in the Secretary of the Treasury which might well be abused by future incumbents of that office.

A letter from the Secretary of the Treasury was incorporated in the record of the hearings (p. 4). In his communication to the chairman, the Secretary stated that—

> Reorganization Plan No. 1 relates exclusively to the Treasury Department and I am in accord with its provisions, except to the extent that it would transfer the functions of the Bureau of the Comptroller of the Currency to the Secretary of the Treasury.

The Secretary then pointed out that the primary responsibility of that Bureau, which it had discharged for almost a century, is the supervision and regulation of the national banking system, and that the controlled supervision over this system has served as models for the banking systems of the various States and for their supervisory principles and practices.

In commenting on the exercise of the quasi-judicial powers vested in the Comptroller, the Secretary concluded that "it is highly desirable that all such functions in this field should be performed by an official whose duties are definitely and permanently related to the national banking system alone." The Secretary stated that while he would use the powers transferred to him under plan No. 1 "to preserve the continuity of this Bureau in all possible respects, in order to maintain a situation which, in my opinion, is most beneficial both to the National Banking System and to the general economy * * *. It must be borne in mind that my policy in this respect would not necessarily be maintained by future Secretaries of the Treasury." The letter from the Secretary of the Treasury is appended hereto (appendix B).

The committee has received in excess of 700 communications from 40 States in favor of the resolutions of disapproval on Reorganization Plan No. 1, practically all of which are from bankers or banking groups. In every instance the opposition was based on the proposal to subordinate the Comptroller of the Currency and to transfer his functions to the Secretary of the Treasury.

In addition to the above-named sponsors of resolution of disapproval the committee also received testimony from eight representatives of the American Bankers Association and from representatives of State and national banking groups in favor of the resolution. The substance of this testimony is consolidated under the heading "Summary of committee's findings" hereinbefore included in this report.

CONCLUSION

The majority of the committee, having considered all evidence submitted at the hearings on Senate Resolution No. 246, and outlined briefly in this report, recommends that the Senate approve the resolution so that Reorganization Plan No. 1 of 1950 may not become effective.

The following appendixes include the full text of the President's message submitted to Congress on March 13, 1950, Reorganization Plan No. 1, and a letter addressed to the chairman of the Senate Committee on Expenditures in the Executive Departments by the Secretary of the Treasury:

APPENDIX A

[H. Doc. No. 505, 81st Cong., 2d sess.]

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of the Treasury. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Administrative Assistant Secretary of the Treasury. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 1 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF THE TREASURY

SECTION 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, and subject to the provisions of subsection (c) of this section, there are hereby transferred to the Secretary of the Treasury all functions of all other officers of the Department of the Treasury and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of the Treasury.

(c) Notwithstanding the transfer to the Secretary of the Treasury of the functions of the United States Coast Guard and of the functions of the Commandant of the Coast Guard, effected by the provisions of subsection (a) of this section, such Coast Guard, together with the said functions, shall operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in section 1 of the Act of January 28, 1915 (ch. 20, 38 Stat. 800, as amended, 14 U. S. C. 1).

SEC. 2. *Performance of functions of Secretary.*—The Secretary of the Treasury may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of the Treasury of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

SEC. 3. *Administrative Assistant Secretary.*—There shall be in the Department of the Treasury an Administrative Assistant Secretary of the Treasury, who shall be appointed, with the approval of the President, by the Secretary of the Treasury under the classified civil service, who shall perform such duties as the Secretary of the Treasury shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 4. *Incidental transfers.*—The Secretary of the Treasury may from time to time effect such transfers within the Department of the Treasury of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

APPENDIX B

THE SECRETARY OF THE TREASURY,
Washington, April 7, 1950.

HON. JOHN L. MCCLELLAN,
Chairman, Committee on Expenditures in the Executive Departments,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I want to thank you for your letter of April 4, informing me of the scheduled hearings with respect to the President's Reorganization Plan No. 1 of 1950 and inquiring if I desired to be heard by the committee. Although I have no wish to testify, I do want to cooperate with the committee to the fullest extent possible and therefore take this opportunity to submit my views with respect to certain aspects of the plan.

I am in full accord with the fundamental principles of the reorganization plans recently submitted to the Congress by the President. Reorganization Plan No. 1 relates exclusively to the Treasury Department and I am in accord with its provisions, except to the extent that it would transfer the functions of the Bureau of the Comptroller of the Currency to the Secretary of the Treasury.

In view of the considerable discussion of this matter in recent weeks, it is unnecessary for me to dwell at length upon the history and status of the Office of the Comptroller of the Currency. The primary responsibility of that Bureau, which it has discharged for almost a century, is the supervision and regulation of the national banking system. This important function, which relates to institutions holding over half of the Nation's commercial banking resources, is performed by a relatively small, closely knit organization of career employees. The national banking system, and its supervision by the Comptroller of the Currency, have served as models for the banking systems of the various States and for their supervisory principles and practices.

Effective governmental regulation of national banks has rested at all times upon the exclusive preoccupation of this Bureau with the well-being of the individual banks and their performance of all the banking services called for by a vigorous and expanding economy. With very few exceptions, the individual banks of the national banking system have consistently responded to the recommendations and suggestions of the Comptroller of the Currency, and this has been true to a considerable extent because of their realization that the Comptroller's office is not only thoroughly and intimately acquainted with the affairs of all national banks, but has no other purpose on function than maintaining the soundness and progress of those banks.

I need hardly stress the value of such a relationship of trust and confidence, built up over many years of contact through carefully worked out and consistently applied examination and supervisory procedures. By virtue of this relationship, with which the directors and officers of every national bank have been familiar throughout their banking careers, the Comptroller's office serves as a coordinating, steadying, and vitalizing force in the entire banking system.

In the course of his duties, the Comptroller of the Currency exercises a number of quasi-judicial powers of great importance. In my judgment, it is highly desirable that all such functions in this field should be performed by an official whose duties are definitely and permanently related to the national banking system alone. It should be borne in mind that under present law the Comptroller performs his duties "under the general directions of the Secretary of the Treasury," and this provides an entirely adequate integration of the general policies of the Bureau with those of the Department.

If Reorganization Plan No. 1 of 1950 became effective, I would use my full powers thereunder to preserve the continuity of this Bureau in all possible re-

spects, in order to maintain a situation which, in my opinion, is most beneficial both to the national banking system and to the general economy. However, it must be borne in mind that my policy in this respect would not necessarily be maintained by future Secretaries of the Treasury.

It is my firm conviction that a vigorous national banking system is essential to the economy of this country. It not only acts as a pacemaker, as I intimated above, for the State banking systems, but also serves to provide competition for those systems, and hence increases their strength as it increases its own. It is also my belief that the national banking system would not long remain intact, strong, and vigorous without leadership by the Bureau of the Comptroller of the Currency, which has no other function that its supervision and administration. The preservation of that system is more important than creating a new channel of authority where no need therefor appears.

In its report to the Congress on General Management of the Executive Branch, the Commission on Organization of the Executive Branch of the Government (the Hoover Commission) summarized the principles which, it felt, should govern the organization and administration of the Government. This summary emphasized the importance of managing the operations of the executive branch "effectively, responsibly, and economically." It is difficult to see how the operations of the Office of the Comptroller of the Currency could be performed with greater effectiveness or responsibility. As for economizing, that Bureau is one of the few administrative agencies of government that uses no tax funds; it is supported entirely by assessments upon the banks it supervises.

For the foregoing reasons, I doubt the advisability of the proposed transfer of the functions and powers of the Comptroller of the Currency. In all other respects the plan has my unqualified endorsement.

Sincerely yours,

JOHN W. SNYDER,
Secretary of the Treasury.

MINORITY VIEWS

Mr. Robert L. McCormick, research director of the Citizens' Committee for the Hoover Reports, stated in his testimony before the Committee on Expenditures, that "Plan No. 1 (dealing with the Treasury Department) fully accords with the Hoover Commission's recommendation * * * there is no question about the matter."

The opposition to this plan comes almost entirely from the bankers of the country. I listened to most of their testimony opposing the proposed revised status of the Comptroller of the Currency. Reorganization Plan No. 1 simply makes more explicit the relation between the Comptroller and the Secretary of the Treasury that has existed in fact during the past 16 years.

Because I do not concur with the arguments presented by the banks, I oppose the resolutions which have been approved by eight of the members of the Committee on Expenditures and which reject Reorganization Plan No. 1.

I concur with the Citizens' Committee that plan No. 1 is clearly in accord with the recommendations of the Hoover Commission and should not be disapproved by Congress. Further, its disapproval might indeed be disastrous to forthcoming reorganization proposals also based on the recommendations of the Hoover Commission. Its disapproval would further encourage group pressures from all sides.

In its report on the Treasury Department, the Hoover Commission urged that the Secretary of the Treasury be given authority to organize the Department to achieve sound and efficient departmental administration. The question before us is whether he shall or shall not be given this needed authority.

Reorganization Plan No. 1 makes possible a regrouping of those affairs which logically pertain to the responsibilities of the Secretary of the Treasury. The plan affects not only the Comptroller of the Currency but eight other operating agencies as well: Internal Revenue, Customs, Engraving and Printing, Mint, Narcotics, Fiscal Services, Coast Guard, and Secret Service. Further, of the total personnel involved in the nine agencies, only 1.3 percent, or 1,165 people, are in the Office of the Comptroller of the Currency.

Mr. F. Raymond Peterson, president of the American Bankers Association, officially presented the position of the association. He stated that "the plan would have two, and only two, significant results." Mr. Peterson testified that, apart from giving to the Secretary of the Treasury a new administrative assistant, "* * * the only bureau affected by Reorganization Plan No. 1 is the Office of the Comptroller of the Currency."

These erroneous statements by the head of the great American Bankers Association show the extent to which the banks have heard about this plan only from the standpoint of its alleged effect on the Comptroller of the Currency. This alleged effect they are told is against their own interests.

The interests of the banks are of course vital to us all as well as to them, and must be protected. Further, the bankers are not the first group to see a problem through their own eyes. This kind of eyesight must be anticipated by the Congress, as Congress will, of course, be facing the same problem again and again—and from group after group—if it faces up to the recommendations of the Hoover Commission. Such group opposition is the biggest hurdle in the reorganization of the Federal Government. In Connecticut we are facing the same kind of opposition to the efforts of Governor Bowles, and his State commission to achieve an efficient administration. Mr. McCormick of the Citizens Committee for the Hoover Report, expressed this thought in his testimony before the Committee on Expenditures when he expressed his regret "to see that their (the banks') attitude appears to be that of reorganizing 'everyone but me'."

If Congress now permits the President to proceed with Reorganization Plan No. 1, I think the present fears of the banks will prove to be as unwarranted as were their fears at the time the Federal Reserve Board was established. I think they will prove to be as unwarranted as at the time the Federal Deposit Insurance Corporation was established. The banks opposed those great steps forward—steps taken by Congress in the public interest—as they now oppose Reorganization Plan No. 1. Yet I am sure that a more efficient operation of the Department of the Treasury, and of these nine bureaus for which the Secretary should be clearly and directly responsible, would meet with the banks' support—as the Federal Reserve Board and FDIC now do—when once the issues can be made clear.

Some of the bankers who testified seemed to fear that some future President of the United States or Secretary of the Treasury might follow policies designed to destroy the integrity of our banking system. However, they testified that there is no record in the past of such intentions on the part of any President of the United States or his Secretary of the Treasury. If the country were ever to have the kind of President or Secretary of the Treasury feared by some of the bankers, it seems to me highly unlikely that the Comptroller of the Currency could have any status which could stand up against a political environment of that kind.

But even if it were conceded that no future President or Secretary of the Treasury would deliberately seek to corrupt the banking system, a further and legitimate question remains: Might corruption come accidentally if the protective devices now believed to reside in the Comptroller of the Currency were to be turned over to the clear-cut control of the Secretary of the Treasury? Entirely apart from my feeling that such accidents are highly unlikely, I would like to suggest that the banks have shown in these recent hearings that they are exceedingly good watchdogs. They can be counted on to be very quick to point out any such possible accidental danger.

The Secretary of the Treasury already appoints the Deputy Comptrollers of the Currency; he now prescribes regulations governing the Office of the Comptroller on the conduct of its officers and clerks and on the distribution and performance of its business. The legal work relating to the Office of the Comptroller of the Currency is under the general counsel of the Treasury Department. The appointment of the personnel of the Office of the Comptroller of the Currency, together with the fixing of compensation, transfer, promotion, demotion, suspension, or dismissal, is vested in the Secretary of the Treasury.

It is difficult for me to reconcile the foregoing with the apparent feeling of some of those who testified that the Comptroller of the Currency is an "independent officer" and that the reorganization plan would destroy that independence. As the foregoing shows, the Comptroller of the Currency is by no means independent. The statute even provides that the Comptroller "shall perform his duties under the general direction of the Secretary of the Treasury" (12 U. S. C. 1).

This statutory mandate to the Comptroller has not been a mere formality. I know from my talks with a high official who has been personally acquainted with the operations of the Treasury, including those of the Bureau of the Comptroller of the Currency, throughout the past 16 years, and including the regimes of three Secretaries of the Treasury, that the policies of the Comptroller of the Currency have been, in fact, controlled by the Secretary of the Treasury.

This high official states that the Comptroller could not have functioned with less independence during this period than would have been the case if this reorganization plan had been in effect. For example, he states that the first Deputy Comptroller of the Currency for a long period was the personal representative of the Secretary of the Treasury; a Secretary of the Treasury dictated the participation of the Comptroller of the Currency in an agreement among the three Federal supervisory agencies on examination policy; the policies of the Comptroller with respect to the approval of branches for one of the largest banking organizations in the country have been determined from time to time by the various Secretaries of the Treasury; and the Comptroller of the Currency has not been in position to make recommendations to the Congress with respect to legislation except after consultation and in accordance with the views of the Secretary of the Treasury. Thus the situation with respect to the Comptroller will not be different under this plan from what it has been. My authority makes the comment, however, that this reorganization plan will have the merit of bringing out into the open the lodgment of responsibility in the Secretary of the Treasury for the determination of policies where heretofore there has been obscurity as to whether that responsibility was exercised by the Comptroller. It is better to make responsibility explicit than to continue to permit it to be covered up.

I do agree that the present confusion created by bankers concerning the status of the Comptroller of the Currency might delay action on the part of the President, if he wished to discharge this subordinate, but it seems apparent to me that with the power to fire the Comptroller of the Currency, which was conceded in the testimony, the President does not enlarge on this power by making the Comptroller more clearly responsible to the Secretary of the Treasury.

The statute concerning the appointment and tenure of the Comptroller of the Currency (sec. 325 of the Revised Statutes, as amended) reads as follows:

> The Comptroller of the Currency shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold his office for a term of five years unless sooner removed by the President, upon reasons to be communicated by him to the Senate.

A national campaign of pressure has been conducted to alarm the bankers throughout the country. The results of this campaign largely account, in my judgment, for the present majority report of the Senate Committee on Expenditures. However, many of the letters received

by Members of the Senate from small banks state bluntly that they do not understand the problem but that they have been told to write in opposition.

This campaign obscures the true facts; there is merely superficial plausibility to the argument that the banks pay for the work of the Comptroller of the Currency and thus he should be left right where he is. It is imperative, however, for the Congress to understand the nature of the campaign against this crucial reorganization proposal and—in the public interest—to resist it. This campaign is indeed a good case study for the student of political science—and, more particularly, for the League of Women Voters, the Junior Chamber of Commerce, and all other groups so deeply interested in the adoption of the recommendations of the Hoover Commission.

The opposition on the part of the banks, it seems to me, stems partly from lack of study and thought about the over-all problem and partly from deep and very real mistrust of our democratic processes of government. The banks are the trustees of the people's money and their responsibilities train them to take a dim view of the future and of mankind in general. A good banker must train himself to try to foresee the dark contingencies which may lie ahead.

But it is not the business of the Congress to set its policy keyed primarily to fears of future black-outs. The Congress must assume that the democratic process will operate successfully. Such black-out fears, if translated into the operation of other bureaus of government, would enormously intensify the present great confusion and waste and inefficiency. They would make the Government even more unmanageable than it is today, far more inefficient, far more confused and confusing. They must be resisted. This is a good place to resist.

The Congress, I hope, will have sufficient confidence in the American people and their elective officers to intrust to those officers the responsibility which is so clearly theirs under our Constitution. If the Congress turns down Reorganization Plan No. 1, according to the Citizens' Committee for the Hoover Reports, "the entire reorganization program of the President might well be wrecked."

WILLIAM BENTON.

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Calendar No. 1528

81ST CONGRESS
2D SESSION

S. RES. 246

[Report No. 1518]

IN THE SENATE OF THE UNITED STATES

MARCH 31 (legislative day, MARCH 29), 1950

Mr. ROBERTSON submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

APRIL 25 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, without amendment

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 1 of 1950, transmitted to Congress by the President on March 13, 1950.

Calendar No. 1528

81ST CONGRESS
2D SESSION

S. RES. 246

[Report No. 1518]

RESOLUTION

Disapproving Reorganization Plan Numbered 1 of 1950.

By Mr. ROBERTSON

MARCH 31 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

APRIL 25 (legislative day, MARCH 29), 1950
Reported without amendment

203440

ADDRESS BY MRS. OVETA CULP HOBBY AT ANNUAL JOURNALISM BANQUET, UNIVERSITY OF MISSOURI

[Mr. JOHNSON of Texas asked and obtained leave to have printed in the RECORD an address delivered by Mrs. Oveta Culp Hobby at the annual journalism banquet at the University of Missouri, which appears in the Appendix.]

IMPLICATIONS OF THE HISS CASE—ARTICLE BY MARK SULLIVAN

[Mr. BRIDGES asked and obtained leave to have printed in the RECORD an article entitled "Hiss Case Said To Have Aroused Irate Demand for Full Spy Story," written by Mark Sullivan and published in the New York Herald Tribune of May 10, 1950, which appears in the Appendix.]

THE PRESIDENT'S WESTERN TOUR—EDITORIAL FROM THE CONCORD DAILY MONITOR

[Mr. BRIDGES asked and obtained leave to have printed in the RECORD an editorial entitled "The 'Nonpolitical' Tour," published in the Concord (N. H.) Daily Monitor of May 5, 1950, which appears in the Appendix.]

UNITED JEWISH APPEAL—EDITORIAL FROM THE NEW HAMPSHIRE MORNING UNION

[Mr. BRIDGES asked and obtained leave to have printed in the RECORD an editorial entitled "United Jewish Appeal," published in the New Hampshire Morning Union of May 9, 1950, which appears in the Appendix.]

ELECTRICAL CARTELS IN POSTWAR EUROPE—ARTICLE FROM THE NEW YORK TIMES

[Mr. BENTON asked and obtained leave to have printed in the RECORD an article entitled "Sweden Uncovers Electrical Cartel," from the New York Times of Wednesday, May 10, 1950, which appears in the Appendix.]

DISAPPROVAL OF REORGANIZATION PLAN NO. 21—STATEMENT BY ROSCOE H. HUPPER

[Mr. BREWSTER asked and obtained leave to have printed in the RECORD a statement by Roscoe H. Hupper in support of Senate Resolution 265 disapproving Reorganization Plan No. 21, which appears in the Appendix.]

ACCIDENTS—BRUCE BARTON'S COLUMN

[Mr. WILEY asked and obtained leave to have printed in the RECORD the column of Bruce Barton entitled "Accidents," published in a recent issue of the Seattle Post-Intelligencer, which appears in the Appendix.]

THE RAILROAD STRIKE

[Mr. BRICKER asked and obtained leave to have printed in the RECORD a series of telegrams received by him from industries and businesses in Ohio, indicating the serious unemployment situation by reason of the present railroad strike, which appear in the Appendix.]

THE RAILROAD STRIKE—ARTICLE BY DON ROSS

[Mr. DONNELL asked and obtained leave to have printed in the RECORD an article entitled "Rail Service Cut in 27 States by Firemen's Strike on Four Roads," by Don Ross, published in the New York Herald Tribune of May 11, 1950, which appears in the Appendix.]

THE RAILROAD STRIKE—ARTICLE BY GEORGE ECKEL

[Mr. DONNELL asked and obtained leave to have printed in the RECORD an article entitled "Railroad Traffic Is Disrupted as Firemen Strike on Four Lines," by George Eckel, published in the New York Times of Thursday, May 11, 1950, which appears in the Appendix.]

CURTAILMENT OF POSTAL SERVICE

[Mr. LEHMAN asked and obtained leave to have printed in the RECORD an excerpt from a letter protesting against the curtailment of postal service, written by Dr. Richard Lewisohn, of New York City, which appears in the Appendix.]

SENATOR McCARTHY'S CHARGES

[Mr. LEHMAN asked and obtained leave to have printed in the RECORD an editorial entitled "Subversion in the Senate," published in the Saturday Review of Literature, which appears in the Appendix.]

OLD-AGE AND SURVIVORS INSURANCE SYSTEM—RESOLUTION OF KIWANIS CLUB OF MILWAUKEE, WIS.

Mr. WILEY. Mr. President, some of the most pleasant memories I can recall are those associated with my fellow members of the Kiwanis clubs of America. In 1933 it was my pleasure to serve as Governor of the Wisconsin-Upper Michigan District of Kiwanis International.

It is therefore always with particular interest that I note the great activities of this distinguished service organization which is so well represented in my own State and throughout the Nation.

I have in my hand a resolution conveyed to me by G. B. Athey, vice president of the Kiwanis Club of Milwaukee. In this club, Don M. Pierson is president, Curtis H. Lankford is secretary, Clarence H. Lichtfeldt is treasurer, Miss Ruth M. Jensen is Executive Secretary, and Byron H. Spear is immediate past president.

The resolution pertains to the revamping of the Nation's obsolete old age and survivors insurance system. I believe it would be of interest to my colleagues, and so I ask unanimous consent that it be printed at this point in the body of the RECORD.

There being no objection, the resolution was ordered to be printed in the body of the RECORD, as follows:

KIWANIS CLUB OF MILWAUKEE,
Milwaukee, Wis., May 9, 1950.

Senator ALEXANDER WILEY,
United States Senate, Washington, D. C.

DEAR SENATOR WILEY: It is my privilege and duty to present the following to you in the name of the Milwaukee Kiwanis Club:

Resolved, That in the highly important field of social security, the Kiwanis Club of Milwaukee favors the following:

1. That all occupations not now covered, including self-employment and farm labor, should be brought under old-age and survivor insurance.

2. That the Federal approach to the problem of the care for the aged should fundamentally be on an insured basis rather than on a needs basis, limiting any action on a needs basis to State and local action.

3. That if universal extension of coverage is adopted then benefits should be increased in accordance with the formula recommended by the advisory counsil of the Senate Finance Committee, but with the retention of the $3,000 wage base for determining average wage.

4. That the program be financed on a pay-as-you-go basis by continuing the present method of equal contributions by employers and employees.

5. That the proper approach to the problem of the total and permanently disabled lies in the rehabilitation and assistance programs of voluntary organizations and public-assistance agencies at the State and local levels without any Federal aid unless at the end of 7 years it is shown that care in this field is not being provided.

It is our hope that you will recognize the importance of the above resolution and will give it your sympathetic support when voting on bill H. R. 6000.

Respectfully.

KIWANIS CLUB OF MILWAUKEE,
G. B. ATHEY, *Vice President.*

REDUCTION IN LEATHER TARIFFS—STATEMENT BY SENATOR WILEY

Mr. WILEY. Mr. President, I send to the desk a brief statement, and two messages which I have received from Wisconsin supervisory and rank-and-file employees, on the question of opposition to proposed reductions in leather tariffs. I ask unanimous consent to have these two messages, along with my statement, printed at this point in the body of the RECORD.

There being no objection, the statement and letters were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR WILEY ON PROTECTION OF AMERICAN BUSINESS AND AMERICAN JOBS

On Tuesday, May 2, I placed in the CONGRESSIONAL RECORD, on page 6211, a message which I had received from a boot and shoe workers union local in south Milwaukee. This letter pointed out the critical problem faced by these workers who find their jobs threatened by a flood of cheap foreign shoes pouring into the United States at one-half or so the cost to produce them in our own country. I stated at that time, and I repeat now, that (a) America is blessed with the highest standard of living in the world; (b) American workers are paid the highest wages in the world, in contrast (c) to low foreign standards of living and cheap wages paid to foreign workers.

WE DON'T WANT BREAD LINES BACK

Since the ultimate cost of any product is in considerable part composed of the labor cost, naturally cheap labor cost abroad means a cheap price tag on the over-all product. Inevitably that means that many American goods can be easily undersold and completely driven from the market. Mr. President, I do not want to see our beloved country return to the days of bread lines, soup kitchens, apples being sold on street corners, and gates with signs spread over them reading "Factory closed—do not apply to personnel office."

The desire to afford reasonable protection to American jobs and American business is not inconsistent with a desire to promote world trade to the greatest extent possible. We know that trade cannot be a one-way street. We know that foreign nations must sell to the United States in order to buy from us.

UNCLE SAM MUST NOT BE UNCLE SAP

At the same time, we know that it is our country which has invariably made the greatest number of trade concessions in the world, and that in spite of our concessions, in spite of the slashing of our tariff barriers, many foreign countries have invariably responded by reneging on their commitments and putting up all sorts of barriers against American products.

In other words, in our conferences, we have been playing the game of "give and take." We give everything (all sorts of trade concessions) and take nothing. The foreign countries often give nothing and take everything. I do not want to be unkind to these foreign nations. I know the critical postwar problems that they face. I have supported reasonable efforts to help put them back on their own feet.

WE CANNOT HELP WORLD BY DESTROYING AMERICA

But I have pointed out, and will continue to point out, that one of the greatest hopes for foreign trade is in developing items which are not directly competitive with American products, and I have pointed out, too, that we cannot build world prosperity on the basis of destroying American prosperity. A strong, solvent America is still the best guaranty of a strong, solvent world.

I don't want to see tanneries or other factories closed in Fond du Lac or Milwaukee or Wausau or Appleton, Wis., because American goods have been driven from the field by avalanches of coolie-made foreign products.

LETTERS FROM CIO AND SUPERVISORS

As an indication of grass-roots sentiments on this issue, I have in my hands two letters which I have received within the last 2 hours. One comes from a CIO local in Fond du Lac, Wis., and the other from a group of management employees in the same town. Both express a similar message—a very reasonable message—an appeal for protection of American leather workers from reckless slashes in our tariffs.

This is a matter which I have taken up time and again with the United States Tariff Commission and with the White House, and it is an item which I will continue to take up until we are satisfied that American bargainers at tariff-negotiation conferences are mindful of the tremendous impact of their reckless actions on United States jobs and United States business.

The letters which I have received are as follows:

INTERNATIONAL FUR AND LEATHER WORKERS UNION OF THE UNITED STATES AND CANADA, CIO, LOCAL NO. 360, LEATHER DIVISION,
Fond du Lac, Wis., May 9, 1950.

Hon. ALEXANDER WILEY,
Senator from Wisconsin,
Washington, D. C.

DEAR SENATOR WILEY: It has been brought to our attention that serious consideration is being given to lowering the tariff on leather and leather byproducts being shipped into the United States from abroad. We consider this as being both dangerous and unfair to both American labor and management.

Much attention is being directed to the present unemployment condition in this country. Certainly lowering or eliminating the tariff now in effect would be disastrous to the leather industry and would tend to create a much more serious unemployment situation.

The Government cannot expect labor and management of the tanning industry to compete with cheap foreign labor and material. If we expect to maintain the high standard of living prevailing in America, we must protect ourselves by insisting that the tariff on leather and other byproducts be kept at a fair level.

The 390 members of Local No. 360, International Fur and Leather Workers Union, urgently request that you as our representative exert every bit of influence and power at your command to prevent further reduction in leather tariffs. We are in a position to send you a formal petition with the signatures of the 390 members of Local No. 360, should you so desire.

This local feels that our jobs and our security depend on immediate action on this matter. We will anticipate your prompt consideration of this problem and will sincerely appreciate any information from you pertaining to your progress.

Yours very truly,

DONALD STOFFREGAN,
Recording Secretary.

KEY MEN'S CLUB,
FRED RUEPING LEATHER CO.,
Fond du Lac, Wis., May 8, 1950.

Hon. ALEXANDER WILEY,
Senator from Wisconsin,
Washington, D. C.

DEAR SENATOR WILEY: The Key Men's Club of the Fred Rueping Leather Co. is an organization of all supervisory employees of this company. At a recent meeting the 88 members unanimously delegated their chairman to write a letter to their legislative representatives, protesting any further reduction in the tariff on leather or leather products.

Any weakening of the low tariff protection now in effect would be disastrous to the leather industry of this country. It is impossible for our industry to compete with foreign companies who receive financial subsidies from their governments, are protected against competition by import restrictions, and whose employees receive wages as much as 90 percent lower than ours. The present United States duties on foreign leathers are the lowest of any leather producing country in the world and they must not be reduced to any lower level.

If it would be of assistance, we will gladly send the signatures of the Key Men, all of whom believe that any action on leather tariff should result in increased, rather than decreased, protection for the United States leather industry.

We urgently request that you take all possible steps to prevent further reduction in leather tariffs and would appreciate any information from you regarding action taken.

Yours very truly,

CARL W. TONJES, *Chairman.*

LEAVES OF ABSENCE

On his own request, and by unanimous consent, Mr. MARTIN was excused from attendance on the sessions of the Senate the remainder of this week, to and including Tuesday, May 16, 1950.

On his own request, and by unanimous consent, Mr. ANDERSON was excused from attendance on the sessions of the Senate on Monday and Tuesday of next week.

CONFIRMATION OF NOMINATIONS OF UNDER SECRETARY OF THE ARMY, EXECUTIVE DIRECTOR OF EUROPEAN COORDINATING COMMITTEE, AND SUNDRY OFFICERS IN THE ARMED SERVICES

Mr. ROBERTSON obtained the floor.

Mr. BYRD. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the junior Senator from Virginia yield to his colleague?

Mr. ROBERTSON. I yield 2 minutes.

Mr. BYRD. Mr. President, as in executive session, and as acting chairman of the Armed Services Committee, I report from that committee the nomination of Mr. Archibald Stevens Alexander, of New Jersey, to be Under Secretary of the Army; Lt. Col. Charles H. Bonesteel, United States Army, to be Executive Director of the European Coordinating Committee; and numerous other routine Army, Navy, and Air Force nominations, including a large number of midshipmen and cadets, with the recommendation that they be confirmed and the President notified. If they are not approved today they will have to be printed on the Executive Calendar and will take up about 40 pages. There are 4,633 names. As in executive session, I ask unanimous consent that all these nominations be confirmed and that the President be notified.

The VICE PRESIDENT. Without objection, the nominations are confirmed; and, without objection, the President will be notified.

REORGANIZATION PLAN NO. 1 OF 1950

Mr. ROBERTSON. Mr. President, I ask unanimous consent for the present consideration of Senate Resolution 246, dealing with the Office of Comptroller of the Currency, debate to be limited to not exceeding 1 hour, the time to be equally divided, and the time for the proponents to be controlled by the Senator from Arkansas [Mr. MCCLELLAN] and for the opponents by the Senator from Connecticut [Mr. BENTON].

The VICE PRESIDENT. Is there objection?

Mr. LUCAS. Reserving the right to object, I hope the Senator will make a motion instead of asking unanimous consent.

Mr. ROBERTSON. I move that the Senate proceed to the consideration of Senate Resolution 246 disapproving Reorganization Plan No. 1 of 1950.

The VICE PRESIDENT. The question is on the motion of the Senator from Virginia.

The motion was agreed to, and the Senate proceeded to consider the resolution (S. Res. 246) disapproving Reorganization Plan No. 1 of 1950.

Mr. ROBERTSON. Mr. President, I now ask unanimous consent that debate on this resolution be limited to not exceeding 1 hour—I hope it will be less—and that the time be equally divided——

The VICE PRESIDENT. The Chair will state that the time is equally divided under the law, without request.

Mr. ROBERTSON. I ask that the time for the proponents be controlled by the Senator from Arkansas [Mr. MCCLELLAN] and for the opponents by the Senator from Connecticut [Mr. BENTON].

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. MCCLELLAN. Mr. President, I yield myself 10 minutes.

Mr. MAYBANK. Mr. President, will the Senator from Arkansas yield to me for a short statement?

Mr. MCCLELLAN. Before yielding myself 10 minutes, I yield 3 minutes to the Senator from South Carolina.

Mr. MAYBANK. Mr. President, I wish to state that the Committee on Banking and Currency had before it for consideration the resolution offered by the Senator from Virginia [Mr. ROBERTSON], and voted unanimously against the transfer proposed in Reorganization Plan No. 1.

As chairman of the Committee on Banking and Currency, I appeared before the Committee on Expenditures in the Executive Departments of which the distinguished Senator from Arkansas is chairman, and made quite a lengthy statement. The record speaks for itself. Speaking for both Republican and Democratic members of the Committee on Banking and Currency, I hope that the resolution will be agreed to.

Mr. MCCLELLAN. Mr. President, I yield myself 10 minutes.

Reorganization Plan No. 1 of 1950, like a number of others submitted to the Congress by the President on March 13, involves a single issue which has brought about opposition to it.

The only real objection to the plan voiced at the hearings before the Committee on Expenditures in the Executive Departments was that the plan, by transferring the functions of the Comptroller of the Currency to the Secretary of the Treasury, would tend to disrupt the existing confidence in our national banking system.

There was no objection to any of the provisions of the plan which would conform to the general recommendations of the Hoover Commission relative to reorganizations within the Department of the Treasury, and to provide the Secretary with an administrative assistant under the classified civil service. Nor was there any opposition expressed to vesting all functions of the Department, excepting the Comptroller of the Currency, in the Secretary.

Therefore, the whole issue involved in Reorganization Plan No. 1 is that it proposes to go counter to an accepted principle established by Congress 86 years ago, in that the exercise of the quasi-judicial functions now administered by the Comptroller of the Currency on an independent statutory basis, be vested in the Secretary of the Treasury.

Mr. THYE. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield briefly.

Mr. THYE. Does the Senator believe there could possibly be any economy if the plan were adopted?

Mr. McCLELLAN. No, none at all, because the Secretary does not want the power; he wants the situation left as it is. The Office of the Comptroller of the Currency is paid for by the banks and not by the Government.

Witnesses contended that this would destroy the independence of the Office of the Comptroller of the Currency and make that Office subservient to the President.

During the hearings it was fully developed by various witnesses that the Comptroller's office has a unique status within the Department of the Treasury in that it is supported not by Federal funds, but by contributions from member banks, and no part of its expenditures are paid from public funds.

A further point was made that the inclusion of the Office of the Comptroller of the Currency within the plan is not in accord with the objectives of the Hoover Commission in its recommendations toward effecting economy and efficiency in the Government, and the elimination of duplicating functions. The Secretary of the Treasury stated specifically in a letter to the committee that he would make no change whatever in the present operations of the Office of the Comptroller of the Currency should the plan become effective, although such authority is granted to him thereunder.

I invite Senators to read the letter. It will be found on page 9 of the report.

The Secretary stated that he could not be responsible for what some of his successors might do.

A further point at issue in connection with the consideration of this reorganization plan is the fact that it does not accord with the intent of section 2 (a) of the Reorganization Act of 1949, which sets forth the specific purposes of that act and the conditions under which reorganization plans were to be submitted to the Congress by the President.

Mr. President, I ask unanimous consent that section 2 of the Reorganization Act of 1949 containing its objectives and purposes be printed in the body of the RECORD at this point, as a part of my remarks.

There being no objection, section 2 of the Reorganization Act of 1949 was ordered to be printed in the RECORD, as follows:

SEC. 2. (a) The President shall examine and from time to time reexamine the organization of all agencies of the Government and shall determine what changes therein are necessary to accomplish the following purposes:

(1) to promote the better execution of the laws, the more effective management of the executive branch of the Government and of its agencies and functions, and the expeditious administration of the public business;

(2) to reduce expenditures and promote economy, to the fullest extent consistent with the efficient operation of the Government;

(3) to increase the efficiency of the operations of the Government to the fullest extent practicable;

(4) to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;

(5) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the Government; and

(6) to eliminate overlapping and duplication of effort.

(b) The Congress declares that the public interest demands the carrying out of the purposes specified in subsection (a) and that such purposes may be accomplished in great measure by proceeding under the provisions of this act, and can be accomplished more speedily thereby than by the enactment of specific legislation.

Mr. MUNDT. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. KERR in the chair). Does the Senator from Arkansas yield to the Senator from South Dakota?

Mr. McCLELLAN. I yield.

Mr. MUNDT. Does the Senator from Arkansas agree with me that so far as there being any economy involved is concerned, there would be no economy to the country through the acceptance of this particular reorganization plan?

Mr. McCLELLAN. There would be no economy to the country, to the Government, or to anyone else that I know of, because the Secretary says he will not exercise the power if it be granted to him. He said that some other Secretary might exercise it, but he will not exercise it.

Mr. MUNDT. I wonder if the Senator will further agree with me that in this time of deficit-spending it would be tremendously dangerous to do anything which would tend to undermine the confidence of the country generally in our banking system or tend to develop additional dissatisfaction on the part of the bankers themselves?

Mr. McCLELLAN. If the Senator will read the letter to which I have referred he will find that thought expressed, possibly not in words, but implied all the way through in the spirit of the letter.

No witness appearing before the committee made any statement to the effect that the inclusion of the Office of the Comptroller of the Currency within the provisions of this plan would accomplish any one of these six objectives. It can, therefore, well be assumed that the plan is not in accord with the purposes of the Reorganization Act as set forth in that act.

I can assure the Senate that the members of the Committee on Expenditures in the Executive Departments are most anxious to further in every way possible reorganization plans, or legislation, which would carry out recommendations of the Hoover Commission designed to conform to the specific recommendations contained in its reports to effect economy and efficiency in Government. While this plan does conform thereto in many respects, it was the firm conviction of the committee that it went far beyond the intent of the Commission by its inclusion of quasi-judicial functions carried on presently under the Comptroller of the Currency in accordance with the intent of the Congress.

The Hoover Commission itself recognized the fact that there were such activities within the Federal structure which would not lend themselves to simple reorganization proposals and would go beyond the premise on which its studies were made. In its concluding report, the Commission stated:

As a matter of principle, the Commission has not been concerned with matters of substantive policy.

The Commission continued, saying that—

In practice, however, it has often been extremely difficult to separate policy from administration, although a conscientious effort has been made to do so.

This is a legislative policy. It is the policy of the Nation, and it has continued satisfactorily for nearly a century. That is the same problem with which the Committee on Expenditures in the Executive Departments was confronted in the consideration of this plan, and the majority of the committee reached the conclusion that the matter should be beyond the scope of a reorganization plan. Any policy changes in the authority of the Comptroller of the Currency which are desirable should be made only after proper consideration by policy committees of the Congress and approved through direct legislative action after all the facts have been presented and considered in connection therewith.

Should this plan become effective and the resolution of disapproval rejected, the majority of the Committee feels that it might well have a serious repercussion on our banking system and inject political influences into their operation which was not intended by Congress in its establishment of the Office of the Comptroller of the Currency.

There is the fear that we are meddling or tampering with something for some purpose, but not for efficiency or economy, not to serve the present able Administrator, but to serve some other purpose. Who knows what the purpose is? The evidence does not reveal it, but it is to serve some purpose undisclosed to us, when we are asked to make a change in a legislative policy which has functioned well and efficiently for nearly a century.

The effect would be that the Comptroller would no longer have sufficient initiative, authority, and independence of action to continue to exercise the functions vested in him by the Congress. This fact has been freely acknowledged by the Secretary of the Treasury in his communication to the committee, and I feel that the Senate can do well to follow the advice of the Secretary of the Treasury, who has had the courage of his convictions to so express himself in spite of the fact that it was necessary to oppose the reorganization plan submitted by the President.

In reporting favorably the resolution of disapproval on Reorganization Plan No. 1, the Committee on Expenditures in the Executive Departments made it clear in its report to the Senate that the entire basis of its opposition to the plan was due to the fact that it included these quasi-judicial functions not in accord with the premise on which the Hoover Commission made its recommendations. I think I speak for a majority of the members of that committee when I say that, had this plan contained a provision therein which would have exempted the quasi-judicial functions of the Comptroller of the Currency, the plan would have been approved. There is no other objection to the plan, but there is objection to an attempt which, without cause, without rhyme, without reason, and without disclosure, would invade the province of an independent agency and place it in a subservient position under a department head.

The PRESIDING OFFICER. The time of the Senator from Arkansas has expired.

Mr. McCLELLAN. I assign myself one more minute.

In closing, I should like to emphasize that in acting adversely on this plan the committee wishes to make it clear that it does so because it does not conform to the tenor of the Hoover Commission's recommendations, although it technically complies therewith in some respects. I personally feel that if a new plan is submitted to reorganize the Department of the Treasury along the lines now contained in Reorganization Plan No. 1, and as specifically recommended by the Hoover Commission, with the Office of the Comptroller of the Currency exempted from its application to insure the continued independence of the Comptroller, the plan would be approved. Since no such exemption is included in Reorganization Plan No. 1 of 1950, I shall vote in favor of Senate Resolution 246 to disapprove the plan.

Mr. President, I yield 1 minute to the Senator from Indiana.

Mr. CAPEHART. Mr. President, I do not know that there is very much I can add to what has been said by the distinguished Senator from Arkansas as to why the plan should be rejected and why the Senate should vote in favor of the resolution. The Committee on Banking and Currency, of which I am a member, voted unanimously against the plan and in favor of the resolution. The Committee on Expenditures in the Executive Departments likewise voted unanimously to disapprove the plan. I believe I am correct when I say that no one appeared in behalf of the plan before the Committee on Banking and Currency. There were only two witnesses who appeared before the Committee on Expenditures in the Executive Departments. The Committee on Banking and Currency, which handles banking legislation which comes before the Senate, voted unanimously against the plan. The plan will not save taxpayers 1 penny. In fact, the Comptroller's office is paid for wholly by the national banks.

I can see nothing to be gained by making the change. I can see much that would be lost. It is somewhat difficult for me to understand why the President requested that the Comptroller of the Currency be put under the Treasury Department of the United States, because the Secretary of the Treasury, in a letter to the Committee on Expenditures in the Executive Departments, said that if the plan became law he would not exercise his rights under it because he was perfectly satisfied with the way the Comptroller General of the Currency was operating. I fail to find in my research and in talking with many people, including many bankers, any good, legitimate excuse for the plan.

Mr. BENTON. Mr. President, I yield myself such time as I may feel to be necessary for the informal remarks which I wish to make. Because I have spoken twice this week on the floor with prepared papers, first on the FEPC bill and, earlier today, on Reorganization Plan No. 12, I am not in a position to furnish the detailed, thorough, and careful analysis which I should like to present at this time. I feel that my role is an unhappy one, for three reasons. First, as the distinguished Senator from Indiana has pointed out, I seem to be alone on this issue. However, although I seem to be alone, I am certain that the distinguished Senator from Indiana is mistaken when he says that no one appeared to testify in favor of the plan. The most important group in the country today dealing with this subject is the Citizens Committee on the Report of the Hoover Commission, headed by my friend, Dr. Robert Johnson, president of Temple University, of Philadelphia. Mr. Robert L. McCormick, research director of the Citizens Committee, in his testimony before the Committee on Expenditures in the Executive Departments, said that plan No. 1, dealing with the Treasury Department, including its recommendation with regard to the Comptroller of the Currency, fully accords with the Hoover Commission recommendations. There can be no question about that. He said further that the rejection of the plan would set a very unhappy and unfortunate precedent for the consideration of other plans still to come.

Mr. ROBERTSON. Mr. President, will the Senator yield?

Mr. BENTON. I am glad to yield to the Senator from Virginia.

Mr. ROBERTSON. I believe that the Hoover Commission's report recommended that the RFC, the FDIC, and the Export-Import Bank be transferred to the Department of the Treasury, but not a word was said about taking adminstrative functions from the Comptroller of the Currency.

Mr. BENTON. If the Senator will permit me, I hope to touch on that subject later in my remarks, when I show that the Comptroller of the Currency, in line with the evidence of the past 16 years, has been under the control of the Secretary of the Treasury. I am sure the Senator from Virgina will recall the statement in the Hoover Commission report of March 1949 dealing with the Treasury Department:

> In our first report we urged that good departmental administration required that the Secretary have authority from the Congress to organize and control his organization, and that independent authority should not be granted directly to subordinates.

That applies to the Comptroller of the Currency.

Mr. ROBERTSON. Mr. President, will the Senator yield?

Mr. BENTON. I yield.

Mr. ROBERTSON. The main objection raised by Mr. McCormick was that if the resolution were adopted, it would be easier for some other plan to be rejected.

Mr. BENTON. I am sorry, but I did not hear what the Senator said.

Mr. ROBERTSON. As I recall the testimony of Mr. McCormick, he said that if Congress adopted the resolution, it would be easier for Congress to disapprove some of the other plans which his committee thought were more important than this plan.

Mr. BENTON. Yes; he brought that out, and he also brought out the point of the precedent that would be established.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. BENTON. Yes.

Mr. CAPEHART. Perhaps I did not say what I had intended to say. I meant to say that there was no opposition other than from those who appeared in behalf of the Hoover Commission. I had in mind bankers and governmental agencies, who did not appear. In other words, there was no banker or anyone in the banking industry in the United States who had any cause to complain about the Comptroller of the Currency. They were all very happy with the way his office has been operated and they felt it should continue as it has openated for many years.

Mr. BENTON. That is unhappily true, as reported by the Senator from Indiana, and I hope to deal with that subject in a few moments. No bankers

appeared to favor the Reorganization Plan No. 1.

Mr. President, I started to say that my role is an unhappy one, because I seem to be alone here. But since the banking fraternity is concerned—and I am sure the distinguished Presiding Officer will understand my statement—my role is unhappy because one of my companies owes the banks $6,000,000, and I do not like to be here discussing the banking business.

The third and real reason for my unhappiness is the exhibition which was made by the American Bankers Association, a great and powerful trade association representing the American business community. I should like to read what Mr. F. Raymond Peterson, the president of that association, who officially presented the position of the association, said to the committee. I assume that his statement was probably written for him by his staff, some member of the trade association representing the bankers. It is my opinion that whoever wrote this statement should be discharged forthwith and thrown out of the trade association, because it is an unhappy fact that American businessmen today, to too great an extent, are abdicating their responsibility, and often their thinking, about big key problems, to trade-association executives, whom they would not hire in their own companies. They are allowing these trade asosciations to make statements on their behalf which they would never permit the treasurer of their company or the vice president of their company to make even on behalf of their own individual business.

I call the attention of the Senate to this testimony of Mr. Peterson. He stated:

> The plan would have two, and only two, significant results.

He testified that—apart from giving to the Secretary of the Treasury a new administrative assistant, the only bureau affected by Reorganization Plan No. 1 is the Office of the Comptroller of the Currency.

Mr. President, of course there are 9 bureaus affected, 9 large bureaus, including some vastly larger and more important ones than the Office of the Comptroller of the Currency. The personnel in the Office of the Comptroller of the Currency is only 1.3 percent of the total personnel affected by this reorganization plan. Yet, Mr. Peterson testified as he did, and in doing so showed the hand of the bankers. They are not interested in the efficiency of the Treasury Department. All they have heard about is this one little tiny matter which affects the Comptroller in his relations with the Secretary of the Treasury, but which, relatively speaking, does not compare with the problem as a whole.

Mr. President, I spoke earlier this afternoon about the National Association of Manufacturers' testimony as it affected plan No. 5; and the Department of Commerce. I believe I can speak with some experience on the problems of business trade organizations in relation to the Government, as well as with some feeling.

I first met the distinguished senior Senator from Georgia [Mr. GEORGE], who is sitting next to me at the moment, when I was appointed by Mr. Jesse Jones, certainly a good friend of business, as Vice Chairman of the Board of Trustees of the Committee for Economic Development, which was organized during the war to assist the business community because the existing trade associations were not so organized and so geared as to do the kind of tremendous job which had to be done.

I have observed these trade associations, have belonged to some of them, and know their weaknesses. I should like to examine for a moment what some of the facts are as I have known them and as I guess them to be, applied to the recent action by the American Bankers' Association.

Of course, one manifest fact is that the banks are indeed very powerful politically, or they would not be having a political influence on some of the Members of this body. That is a most unhappy fact, in my opinion, and in view of their record and in view of their ignorance, I call to the attention of the Senate the fact that the banks opposed the establishment of the Federal Reserve Board. They all opposed the establishment of that Board. I call attention to the fact, further, that they opposed the establishment of the SEC. They fought, with the best men they could hire, to prevent Congress establishing the SEC in the public interest.

I call attention to the fact that the banks virtually unanimously opposed the establishment of the FDIC. I received the full story not long ago of the way in which the banks opposed the passage of the Federal Banking Act of 1935. A very highly placed official who worked all through that operation told me the story. That was the most important legislative act of that year, and the banks were virtually unanimously against it, as they are now unanimously opposing Reorganization Plan No. 1. How do they stand on the Federal Banking Act of 1935 today? They are virtually unanimously for it.

What would be the condition in this country if we had not created the Federal Reserve Board, passed the Federal Banking Act of 1935, established the SEC, and set up the FDIC, but had knuckled down to the bankers, the way it is proposed that we knuckle down to them today in regard to this great reorganization proposal?

Mr. President, I might tell the case story which has come to me about the Federal Banking Act of 1935. The Business Advisory Council labored against the passage of that act. I know a high percentage of the men who were on that council at that time, and who are on it today. The report of the Business Advisory Council was written by an economist who worked for the man who is chairman of a subcommittee of the council. Whether the chairman of the subcommittee read the report of his economist condemning the Federal Banking Act of 1935, I do not know. He is a very prominent banker, and I shall not at least bring out his name on the floor of the Senate. But it is agreed by those who studied the matter later that the subcomittee did not read the report, and, similarly, the Business Advisory Council adopted the report and did not read it.

Mr. President, this report went to the Secretary of Commerce, who in turn transmitted it to the President of the United States. Here was a report allegedly speaking for the Business Advisory Council, which was unread, and which had been written by a staff man away down the line, working for the chairman of a subcommittee.

Mr. President, I should like to refer to what the Hoover Commission recommendations might have meant if they had been followed through all the way.

Mr. KILGORE. Mr. President, will the Senator yield?

Mr. BENTON. I yield to the Senator from West Virginia.

Mr. KILGORE. In line with the subject just spoken of by the Senator from Connecticut, I do not know whether he remembers that after the passage of the law and the creation of the Federal Housing Authority, the banks refused to deal with the Federal Housing Authority until a lot of missionary work was done with them. They did not want the guaranteed loans, because the interest was higher than on the normally processed bank loans, and it was only when the big life-insurance companies and fire-insurance companies started financing the FHA loans that the banks willingly fell into line, and now they are all seeking those loans.

Mr. BENTON. The banks never want any change, they never propose any change, and they never stand for any change. All men in the business community who have operated with banks know that to be an established fact in the temperament of the banking fraternity. I am glad to be reminded of that. I am even hopeful that I may make a convert before I conclude, and I thank the Senator from West Virginia for bearing with me, and I trust that he will stay with me.

The Hoover Commission in its report on the Treasury Department went far beyond what the President has done in these recommendations. The point is not that the recommendations outdid the Hoover Commission report. On the contrary, many things recommended by the Hoover Commission have been held back, and were not included in the plan which came up to the Committee on Expenditures in the Executive Departments.

The extracts from the minority views of Commissioners Aiken, Pollack, and Rowe bring that out very clearly, and they make very clear that the Commission's viewpoint went far beyond the scope of the issue with respect to the Comptroller of the Currency, which is in dispute today in connection with plan No. 1.

Mr. President, I ask unanimous consent to insert in the RECORD a page which further elaborates on that point.

The PRESIDING OFFICER (Mr. CHAPMAN in the chair). Is there objection?

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

SWEEP OF HOOVER COMMISSION RECOMMENDATION MUCH BROADER THAN COMPTROLLER QUESTION

Hoover Commission Report No. 11 on the Treasury Department makes recommendations going far beyond those proposed in Reorganization Plan No. 1. Thus, the majority of the Hoover Commission states that "The Reconstruction Finance Corporation, Export-Import Bank, and the Federal Deposit Insurance Corporation are independent agencies reporting directly to the President. The President cannot give the time necessary for their supervision. Practically they are accountable to nobody."

Hence the Commission recommends that their supervision "be vested in the Secretary of the Treasury."

The following extracts from the minority views of Commissioners Aiken, Pollack, and Rowe will serve to make doubly clear that the Commission's viewpoint went far beyond the scope of the issues with relation to the Comptroller of the Currency under dispute today in connection with plan No. 1.

"We do not quarrel with the Commission's proposal to place the Export-Import Bank, the Reconstruction Finance Corporation, and the Federal Deposit Insurance Corporation within the departmental structure of the executive branch. But we are not so sure that the Treasury is the right Department for the first two agencies. * * *

"The Federal Deposit Insurance Corporation. If this agency is to be put in the Treasury, one of the main reasons is because its bank examining functions should be more closely integrated with those under the Comptroller of the Currency. The same reasoning is valid as to the bank-examining functions of the Federal Reserve System which require integration just as much and just as little as those of the Federal Deposit Insurance Corporation." (P. 31 of Hoover Commission Report 11 on Treasury Department.)

Mr. BENTON. Mr. President, I should like to bring to the attention of the Senate some of the statements and data which I prepared for my minority views. The Senator from Indiana is mistaken if he thinks the Committee on Expenditures in the Executive Departments was unanimous on this subject. There was a minority of three who voted to uphold the reorganization proposals of the Treasury.

Mr. President, I want to remind the Senate of a fact which very few know, namely, that the Comptroller of the Currency is not independent. His so-called independence is a myth, as the comments in the minority views to which I shall refer bring out. What we have now is a state of confusion, for the responsibility is not clearly defined so all can see it. Only those who are in the know, are aware of what the true situation is. But the Secretary of the Treasury already appoints the Deputy Comptroller of the Currency. He now prescribes regulations governing the Office of the Comptroller, the conduct of its officers and clerks, and the distribution and performance of its business. The legal work relating to the Office of the Comptroller of the Currency is under the general counsel of the Treasury Department. The appointment of the personnel of the Office of the Comptroller of the Currency, together with the fixing of compensation, transfer, promotion, demotion, suspension, or dismissal, is vested in the Secretary of the Treasury. The Comptroller cannot even appoint bank examiners without securing approval from the Secretary of the Treasury.

It is difficult for me to reconcile the foregoing with the apparent feeling of some of those who testify that the Comptroller of the Currency is an independent officer and that the reorganization plan would destroy his independence. As the foregoing shows, the Comptroller of the Currency is by no means independent. The statute even provides that the Comptroller "shall perform his duties under the general direction of the Secretary of the Treasury."

That is the law now. When Senators vote down this key and important reorganization proposal I hope they will keep in mind that the present law puts the Comptroller "under the general direction of the Secretary of the Treasury."

This statutory mandate to the Comptroller has not been a mere formality. Before I prepared the minority views I talked with men who have been in Washington, for many years working on these problems and who are very high placed in key Government roles. I did not plunge into the subject blindly or willfully. One highly placed official told me that from his 16 years of observation he believes the Comptroller could not have functioned with less independence than would have been the case if the reorganization plan had been in effect.

For example, he said that the first Deputy Comptroller of the Currency for a long period was the personal representative of the Secretary of the Treasury; that a Secretary of the Treasury dictated the participation of the Comptroller of the Currency in an agreement among the three Federal supervisory agencies on examination policy; that the policies of the Comptroller with respect to the approval of branches for one of the largest banking organizations in the country have been determined from time to time by the various Secretaries of the Treasury, and that the Comptroller of the Currency has not been in position to make recommendations to the Congress with respect to legislation except after consultation and in accordance with the views of the Secretary of the Treasury. Thus the situation with respect to the Comptroller would not be different under this plan from what it has been in the past, except that there would be brought about greater efficiency in the administrative operation.

Mr. President, I deny the theory of the Senator from Indiana that economy is not involved in an organization merely because it receives revenue and supports itself. Let us consider any monopoly situation, such as that of a local telephone company, a power company, or a gas company. Does it follow merely because such a company makes a profit or supports itself that there is no room for efficiency and no chance for economy? Not in the least. It is actually in monopolies with assured profits that the greatest opportunity for efficiency is most often afforded.

Mr. President, my authority makes the point—and to me it goes to the heart of the question—that this reorganization plan will have the merit of bringing out into the open the lodgment of responsibility in the Secretary of the Treasury for the determination of policies, where as heretofore there has been obscurity as to whether the responsibility was exercised by the Comptroller. Of course, I feel that in connection with all the plans we are going to discuss it is far better to make the authority explicit in every case than it is to have it covered up.

I agree that the present confusion created by bankers concerning the status of the Comptroller of the Currency might delay action on the part of the President, if he wished to dismiss the Comptroller. Some persons do not understand that the President has the authority to dismiss the Comptroller. Surely that would seem to lodge the final responsibility with respect to the Comptroller in the President, and if he wished to discharge this subordinate person confusion might make replacement somewhat more difficult. But it was fully conceded in the testimony of all the bankers who appeared, that there is no enlargement whatsoever of the power of the President over the Comptroller of the Currency by anything suggested or planned by the reorganization here proposed.

Mr. President, I am told that the pressure of the bankers has successfully operated on Congress with respect to this particular issue, and of course what I am saying is, I fear, too late and too little. Therefore, perhaps, the point of my remarks relates not so much to Reorganization Plan No. 1, which may be over the dam, or which to use another illustration, may be likened to the sacrificial lamb which marches up to the slaughter. My remarks therefore are keyed to the various other plans as they come from the committee. We have had two plans before the Senate today and they have gone down like ten pins. Other plans are coming before the Senate, and we are faced by selfish, narrow groups who are determined to defeat many of the plans. Shortly we are going to hear from the patent attorneys.

Mr. DONNELL. Mr President, will the Senator yield?

Mr. BENTON. I am glad to yield.

Mr. DONNELL. The Senator stated that we have had two plans under consideration today, and they have both gone down like ten pins. I was under the impression that we voted only on one plan. Am I correct?

Mr. BENTON. Of course, the Senator is correct. My rhetoric seems to have carried me away. I have been consulting with those who try to advise me, and they have told me of future events respecting which I should like to hope they are mistaken, and that the implications of the question of the Senator from Missouri are those to which I should be listening.

Mr. DONNELL. Mr. President, will the Senator yield for a moment?

Mr. BENTON. I yield.

Mr. DONNELL. I was not in any sense criticizing the Senator, but I was somewhat concerned. I had been in the Senate nearly all day, but I wondered whether some other piece of business had been transacted along this line of which I knew nothing.

Mr. BENTON. No.

Mr. DONNELL. I think the Senator from Connecticut now is speaking somewhat with the spirit of prophecy rather than making a recital of history.

Mr. BENTON. Fortunately that is correct, and I am honored that the Senator from Missouri is here to listen to me.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BENTON. I yield.

Mr. LONG. Would it not be correct to withdraw the expression that the plans have been bowled over like tenpins, and instead say that they are about to be bowled over like tenpins?

Mr. BENTON. Surely many individuals with much money in their pockets are standing around with great big balls in their hands ready to roll them against these plans. There is no doubt about that. My remarks are not being addressed to the bankers, because the plan under consideration is over the dam. My talk is not being addressed to the press, because I have found there is no sex appeal, no glamour in governmental reorganization. My remarks surely are not being addressed to some Senator or even to ex-President Hoover. But I hope they may have some effect subsequently so far as the American business community is concerned, because we have a case study here for the young student of political science, or a case study for the League of Women Voters, who are in favor of this plan, or a case study for the junior chambers of commerce, who are in favor of this plan. If they want to understand their Government better and if they want to understand better how their Government operates, I want them to take this as a case study in respect to our failure to deliver.

Mr. President, this national campaign of pressure has been instituted by the banks to alarm the bankers throughout the country, the small bankers who write letters saying, "I have received a letter from the American Bankers' Association and a letter from my State Bankers' Association and a letter from the National Bank Division of the American Bankers' Association and a letter from the Kansas Bank Association." We find all that set forth in one letter, showing how much pressure was put upon a small banker—in the case I have in mind—a banker at Paola, Kans.

Mr. President, in my opinion that national pressure campaign accounts for the 8-to-3 vote in the Committee on Expenditures in the Executive Departments. That campaign obscures the true facts.

On the other hand, the bankers have never been exposed to the other side of this problem. They have heard nothing about the importance of reorganizing the Treasury Department or reorganizing the Federal Government in many other respects, nor are they aware of the significance of what they are doing in following the dictates of this pressure campaign, to the cost of which I presume many of them may be contributing from the other pocket, in support of the Citizens' Committee, in support of the Hoover Commission's proposals.

I think it is imperative for the country, particularly for the business groups, to understand better a problem of this kind, if they want to be more effective and more constructive in their work with the Federal Government and, notably, with the Members of Congress.

The opposition on the part of the banks stems, I think, therefore, from a lack of study and thought about the overall problem, and of course it stems partially from deep and very real mistrust of our democratic processes of government.

The banks are the trustees of the people's money. The welfare of the banks is essential to all of us. The responsibilities of bankers train them to take a dim view of the future and I may add, Mr. President, of mankind in general. A good banker must train himself to try to foresee the unfavorable, dark contingencies of the future, the dark problems which may lie ahead.

However, I certainly think it is not the business of the Congress to key its policies primarily to the fears in regard to future blackouts.

The PRESIDING OFFICER. The Senator from Connecticut has remaining only 2 minutes of his time.

Mr. BENTON. Mr. President, that will be sufficient. I thank the Chair for reminding me.

I think such blackout fears as those to which I have referred, Mr. President, if applied to the other bureaus and agencies of the Government and their operation, would enormously intensify the present great confusion, waste, and inefficiency. I made that point in the remarks I made earlier today in regard to Reorganization Plan No. 12. They would make the Government even more unmanageable than it is today, and far more inefficient and far more confused and far more confusing. They must be resisted.

Therefore, Mr. President, in conclusion let me say that I hope the Senate, if it finds itself committed on this particular plan and problem, will look ahead to the other 19 proposals which are coming through from the Committee on Expenditures in the Executive Departments, and perhaps will hesitate longer and think harder before commitments are made to the individual pressure groups that are moving in upon us.

I hope the American business community will begin to try to get into the trade organizations which represent them, men who think more as statesmen, the kind of men who will give to the business community the foresight and judgment it needs if it is to overcome the tendency referred to in a statement by Karl Marx which the business community might well ponder:

The businessman will commit suicide for a short-term profit.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas has 13 minutes of his time remaining.

Mr. McCLELLAN. Mr. President, I yield the remainder of my time, or as much thereof as he may desire, to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBERTSON. Mr. President, all I wish to do, in response to the argument of the distinguished Senator from Connecticut, is to say that when he charges that we are rolling over or rejecting all these plans to have better administration, it should be remembered that Mr. Hoover himself was not in favor of Reorganization Plan No. 12, which the Senate has disapproved today—and I voted to disapprove it—and it should also be remembered that Mr. Hoover is not in favor of Reorganization Plan No. 1, upon which we are about to vote. It should further be remembered that Reorganization Plan No. 1 is not approved by the Cabinet officer to whom this power would be granted. He wrote to the committee saying that he did not approve it and did not want the power, and that if it were given to him, he would not exercise it.

Mr. President, in view of the fact that the sentiment against this plan, which comes to us in an entirely different form from that which the Hoover Commission recommended, is so overwhelming in the country and so overwhelming on the floor of the Senate, I shall not delay the vote by discussing the matter further; but I ask unanimous consent to have inserted at this point in the RECORD a brief statement in support of the resolution of disapproval.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR ROBERTSON

Mr. President, I have received hundreds of letters in recent months from constituents and other citizens urging me to support the recommendations of the Hoover Commission and I have told these correspondents that I would support those recommendations which would promote economy and efficiency in our Government.

In advocating today adoption of my resolution to disapprove the President's Reorganization Plan No. 1, I want to emphasize that I am not speaking as an opponent of the Hoover Commission's proposals nor am I departing from the position I have regularly taken favoring Federal economies.

Although this plan is based on an interpretation of the Hoover Commission's general recommendations concerning management in the executive branch, the Citizens' Committee for the Hoover report itself admits that it differs widely from the more specific recommendations which the Commission made for reorganization of the Treasury Department.

In essence this plan merely would destroy the present independent status of the Comptroller of the Currency and would give the Secretary of the Treasury an administrative assistant secretary. I have no objection to giving the Secretary another assistant if he needs one, but adding additional employees certainly is not a direct way of economizing in our spending. I am strongly opposed to the part of the proposal relating to the Comptroller. What we do there cannot promote governmental economy because the

costs of the Comptroller's Office are paid by direct assessments against the national banks which it examines. No efficiency is involved unless it be claimed that a program of deficit financing can be promoted more efficiently if the President, through his Secretary of the Treasury can indirectly control the credit policies of the national banks. That is not the kind of efficiency in which I believe.

I said at the outset of these remarks that I had received hundreds of letters endorsing the Hoover Commission recommendations. In contrast, all of the letters except one which I have received concerning Reorganization Plan No. 1 have been opposed to it. And the one banker who favored it admitted frankly that he was influenced in his position by an unpleasant personal experience with the Comptroller's Office.

On the other hand, I found that our national banks were against the proposed change; that the Comptroller did not favor it and that the Secretary of the Treasury, who would be given additional power, did not want it.

In a letter submitted for the record of the hearings on the pending resolution, Secretary of the Treasury John W. Snyder made the statement that he was in accord with the provisions of Reorganization Plan No. 1 "except to the extent that it would transfer the functions of the Bureau of the Comptroller of the Currency to the Secretary of the Treasury."

In this letter Mr. Snyder said: "If Reorganization Plan No. 1 of 1950 became effective, I would use my full powers thereunder to preserve the continuity of this bureau in all possible respects in order to maintain a situation which, in my opinion, is most beneficial both to the national banking system and to the general economy. However, it must be borne in mind that my policy in this respect would not necessarily be maintained by future secretaries of the Treasury."

In other words, if this plan is accepted now, the Secretary of the Treasury promises to let things go on practically as they are so that the effect would be a nullity, but the latter part of his statement suggests that he shares the fear many of us have that some future secretary might use his power over the Comptroller to whip National Banks into line in support of the Executive's fiscal policies.

Secretary Snyder himself went so far as to say: "It is my firm conviction that a vigorous national banking system is essential to the economy of this country. It not only acts as a pacemaker, as I intimated above, for the State banking systems, but also serves to provide competition for those systems, and hence increases their strength as it increases its own. It is also my belief that the national banking system would not long remain intact, strong, and vigorous without leadership by the Office of the Comptroller of the Currency, which has no other function than its supervision and administration. The preservation of that system is more important than creating a new channel of authority where no need therefor appears."

Mr. Snyder's letter then referred to the summarization of the principles of administration contained in the Hoover report and continued: "It is difficult to see how the operations of the Office of the Comptroller of the Currency could be performed with greater effectiveness or responsibility. As for economizing, that Bureau is one of the few administrative agencies of Government that uses no tax funds; it is supported entirely by assessments upon the banks it supervises."

The letter concluded with a renewed expression of Mr. Snyder's doubt as to the advisability of the proposed transfer.

I would also remind you that at the hearings on the pending resolution, the distinguished Chairman of the Banking and Currency Committee, the senior Senator from South Carolina, appeared at the direction of his committee to oppose the plan. He pointed out that this committee, on which I also have the honor to serve, was concerned because of the proposal to abolish, in effect, the agency which has supervised national banks ever since the national banking system was established.

Others who appeared at the hearings in opposition to the reorganization plan and favoring the pending resolution included representatives of the National Association of Supervisors of State Banks, the American Bankers Association, several State bankers associations and the Reserve City Bankers Association.

The only testimony favorable to the plan was that given by representatives of the Budget Bureau and a spokesman for the Citizens Committee for the Hoover Report who admitted that part of his concern over what happened to this plan was not so much because of its content as because it was the first of the reorganization plans and he feared the precedent that would be set by its rejection.

Confirming my own experience, the staff director of the Committee on Expenditures in the Executive Departments, which handled the pending resolution, reported in a statement incorporated in the hearings that it had received 376 communications from 37 States dealing with plan No. 1 and that all but one of those was in opposition to the plan.

Mr. President, I shall not take up the time of the Senate with further discussion of this plan, because I feel the objections to it are too obvious and the arguments for it too weak to require extended treatment. I ask, however, that there may be inserted at this point in the RECORD, as a part of my remarks the short statement I submitted at the committee hearing outlining 10 reasons why this reorganization plan should not be approved.

The statement follows:

REASONS FOR OPPOSING REORGANIZATION PLAN NO. 1 OF 1950

1. For 86 years the Office of the Comptroller has enjoyed, and still does, a semi-independent status.

Other branches, bureaus, or divisions of the Treasury Department do not possess this standing. The plan, therefore, primarily would affect the Comptroller.

The Comptroller is appointed by the President with the consent and advice of the Senate. He administers the functions of the office under the genetal direction of the Secretary of the Treasury. He is accountable to Congress through annual reports and through reports on salaries of all bank examiners. He makes recommendations to Congress concerning legislation affecting national banks. He enjoys a position of prestige on the same plane as the heads of other supervisory authorities, such as the FDIC and the Board of Governors of the Federal Reserve System.

The plan would result in the Secretary of the Treasury absorbing all functions of the office and severing the Comptroller's present direct relationship with Congress.

2. The Comptroller's office does not constitute, in any way, a burden upon our Federal budget.

One of the principal objectives of the Reorganization Act of 1949 is to reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Government. With this sound principle we are all in accord.

At this time, the Comptroller's Office is entirely self-sustaining, dependent in no way upon appropriations made by Congress or funds supplied by the Treasury Department. The expenses of the office are defrayed exclusively by the assessments on national banks for examinations made by it. Therefore, no reduction of Government expenditures would result from the proposed reorganization plan.

3. Under the plan the Secretary of the Treasury could effect transfers of the funds of the Comptroller's Office as well as records, property, and personnel.

The sum paid to the Comptroller by national banks therefore would be subject to this provision. The Secretary of the Treasury would have control of these funds and any unused portion thereof could be appropriated and used by him to carry out other functions of the Department.

4. It would be a step toward the breaking down of our existing dual banking relationship.

This plan might be only the forerunner of still an additional reorganization plan which would transfer either to the Board of Governors or the FDIC the examining, statistical, and other functions of the Comptroller, excepting perhaps the chartering of national banks.

5. It would place the Comptroller in an inferior position with relation to the heads of other supervisory bodies, such as the FDIC and the Board of Governors of the Federal Reserve System.

6. The Secretary of the Treasury could reassign duties which might seriously interfere with the efficient operation of the Comptroller's functions.

The Secretary of the Treasury, under the plan, would have complete direction and control over the duties now performed by the Comptroller's Office. The Secretary could authorize any other officer, agency, or employee of the Department to handle any of the functions now performed by the Comptroller's Office. This could lead to serious difficulties in the enforcement of the National Bank Act, as the proper administration of national banking laws requires quick decisions by experienced supervisory authorities, whose decisions are final.

The national banks, at this time, have confidence and are satisfied with the splendid past performance of the Comptroller's Office, and certainly do not desire any change which might in any way jeopardize the same.

7. The plan possibly would involve the replacement of the Comptroller by the Secretary of the Treasury on the Board of Directors of the FDIC, unless the Secretary delegates that function specifically to the Comptroller or to some other official.

8. An Administrative Secretary would be appointed who would perform such duties as prescribed by the Secretary, particularly in supervising and directing the policies and the programs of the Department.

This would inject outside interference in the determination and administration of policies and regulations now carried out by the Comptroller and his assistants.

9. The Office of the Comptroller enjoys the confidence of the national banks of the country.

There are approximately 5,000 national banks in this country, representing over 56 percent of all the commercial banking resources of the United States. These banks look to the Comptroller of the Currency as their sponsor in Washington, a Federal official free to speak and act on their behalf and without censor or influence from a superior. While the banks of the country have the highest respect and confidence in our present Secretary of the Treasury, the Honorable John W. Snyder, there is apprehension that some future holder of this office might use his powers and authority in a way not conducive to sound banking or for the general public welfare. It is a matter of law, rather than a matter of personalities. Over the long years of its existence, the Office of the Comptroller has built up a splendid

record. It is our belief that nothing should be done which would in any way disturb the present satisfactory operations of national banks and the public confidence in them.

10. The Office of the Comptroller of the Currency should be kept out of politics.

Congress provided that the term of office of the Comptroller should be for 5 years and, therefore, it would not be concurrent with the tenure of office of the Secretary of the Treasury.

Formerly, his appointment was made by the President on the recommendation of the Secretary of the Treasury, to be confirmed by the Senate. In the Banking Act of 1935, this was changed to provide for the appointment of the Comptroller solely by the President, without the recommendation of the Secretary of the Treasury, but with the advice and consent of the Senate.

Apparently, these provisions were made for the purpose of protecting the national banks with a leadership independent of undue influence from other governmental authority. The Comptroller is responsible for momentous decisions which would insure sound operations for the national banking system. These decisions should be unbiased and final.

Mr. ROBERTSON. Mr. President, I yield back to the Senator from Arkansas the remainder of the time which he has allotted to me.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Hendrickson	Malone
Anderson	Hickenlooper	Martin
Benton	Hill	Maybank
Brewster	Hoey	Millikin
Bricker	Holland	Mundt
Bridges	Hunt	Myers
Butler	Ives	Neely
Byrd	Jenner	O'Conor
Cain	Johnson, Colo.	Robertson
Capehart	Johnson, Tex.	Saltonstall
Chapman	Johnston, S. C.	Schoeppel
Connally	Kefauver	Smith, Maine
Cordon	Kem	Smith, N. J.
Darby	Kerr	Sparkman
Donnell	Kilgore	Stennis
Dworshak	Knowland	Taft
Eastland	Langer	Thomas, Okla.
Ecton	Leahy	Thomas, Utah
Ellender	Lehman	Thye
Ferguson	Lodge	Tobey
Fulbright	Long	Watkins
George	Lucas	Wherry
Gillette	McCarthy	Wiley
Green	McClellan	Williams
Gurney	McFarland	Withers
Hayden	McKellar	Young

The PRESIDING OFFICER. A quorum is present. The question is on agreeing to the resolution offered by the Senator from Virginia [Mr. ROBERTSON].

Mr. ROBERTSON. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Those in favor of the resolution will vote "yea." Those opposed to the resolution will vote "nay."

Mr. WHERRY. Mr. President, do I correctly understand the Chair to mean that if a Senator opposes the reorganization plan, and favors the resolution disapproving it, he should vote "yea"?

The PRESIDING OFFICER. That is correct. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MYERS. I announce that the Senator from California [Mr. DOWNEY] is absent because of illness.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from Delaware [Mr. FREAR], the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Idaho [Mr. TAYLOR], and the Senator from Maryland [Mr. TYDINGS] are absent on official business.

The Senator from Illinois [Mr. DOUGLAS], the Senator from North Carolina [Mr. GRAHAM], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Connecticut [Mr. MCMAHON], and the Senator from Florida [Mr. PEPPER] are absent on public business.

The Senator from Washington [Mr. MAGNUSON], and the Senator from Nevada [Mr. MCCARRAN] are absent by leave of the Senate on official business.

The Senator from Montana [Mr. MURRAY] is absent because of illness in his family.

The Senator from Georgia [Mr. RUSSELL] is absent by leave of the Senate.

The Senator from Illinois [Mr. DOUGLAS] is paired on this vote with the Senator from Delaware [Mr. FREAR]. If present and voting, the Senator from Illinois would vote "nay," and the Senator from Delaware would vote "yea."

The Senator from Washington [Mr. MAGNUSON] is paired on this vote with the Senator from Montana [Mr. MURRAY]. If present and voting, the Senator from Washington would vote "yea," and the Senator from Montana would vote "nay."

The Senator from Nevada [Mr. MCCARRAN] is paired on this vote with the Senator from Wyoming [Mr. O'MAHONEY]. If present and voting, the Senator from Nevada would vote "yea," and the Senator from Wyoming would vote "nay".

Mr. SALTONSTALL. I announce that the Senator from Oregon [Mr. MORSE] and the Senator from Michigan [Mr. VANDENBERG] are absent by leave of the Senate.

The Senator from Vermont [Mr. FLANDERS] is detained on official business. If present and voting, the Senator from Vermont would vote "yea."

The result was announced—yeas 65, nays 13, as follows:

YEAS—65

Anderson	Hickenlooper	Maybank
Brewster	Hoey	Millikin
Bricker	Holland	Mundt
Bridges	Hunt	Myers
Butler	Ives	O'Conor
Byrd	Jenner	Robertson
Cain	Johnson, Colo.	Saltonstall
Capehart	Johnson, Tex.	Schoeppel
Chapman	Johnston, S. C.	Smith, Maine
Connally	Kem	Smith, N. J.
Cordon	Kerr	Stennis
Darby	Knowland	Taft
Donnell	Langer	Thomas, Okla.
Dworshak	Lehman	Thomas, Utah
Eastland	Long	Thye
Ecton	Lucas	Tobey
Ferguson	McCarthy	Watkins
Fulbright	McClellan	Wherry
George	McFarland	Wiley
Gillette	McKellar	Withers
Gurney	Malone	Young
Hendrickson	Martin	

NAYS—13

Aiken	Hill	Neely
Benton	Kefauver	Sparkman
Ellender	Kilgore	Williams
Green	Leahy	
Hayden	Lodge	

NOT VOTING—18

Chavez	Humphrey	O'Mahoney
Douglas	McCarran	Pepper
Downey	McMahon	Russell
Flanders	Magnuson	Taylor
Frear	Morse	Tydings
Graham	Murray	Vandenberg

The PRESIDING OFFICER. On this vote there are 65 yeas, 13 nays. A majority of the authorized membership of the Senate having voted in the affirmative, the resolution is agreed to.

EDITORIAL COMMENT ON THE RAILROAD STRIKE

Mr. DONNELL. Mr. President, I ask unanimous consent that there be inserted in the body of the RECORD—not in the Appendix—at this point in my remarks an editorial from the Washington Post of today, May 11, 1950, entitled "Inexcusable Strike," in which the present railroad strike is discussed, the concluding two sentences of which read as follows:

Indeed, we think Congress ought to take another look at the Railway Labor Act, which is predicated on reasonable acceptance of the facts. Compulsory arbitration of rail disputes would have many undesirable ramifications, but it might be inescapable as a means of protecting the public interest—especially against a strike such as this one which seems to have resulted primarily from a union attempt to save face.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

INEXCUSABLE STRIKE

It would be hard to conceive of a strike with less merit, from the public standpoint, than that which has tied up four major railroads. The strike has been called by the Brotherhood of Locomotive Firemen and Enginemen to enforce demands for a second fireman on multiple-unit Diesel locomotives. That demand has twice been turned down by Presidential fact-finding boards on the very reasonable ground that there is little or no work for a second fireman to do. The crippling effects of the strike cannot yet be fully judged, but certainly they will be great. The New York Central, Pennsylvania, Santa Fe, and Southern are all trunkline railroads linking major cities; in many instances they afford the only direct route. A subsidiary effect of the walkout may be seen in the Chesapeake & Ohio order canceling passenger trains out of Washington because they must use Southern tracks.

From the standpoint of the firemen, the issue is twofold: prestige and job security. There is an intense rivalry between the firemen and the Brotherhood of Locomotive Engineers, who also have asked for a second crewman on Diesels but have not pressed their claim. Jobwise, most of the rail unions fear the inroads of dieselization—for Diesels can haul heavier trains faster over longer distances, and there is a threat of potential displacement of some crewmen.

The fear of fewer jobs is behind much union feather bedding, but the means used to combat that fear are reminiscent of the Luddites, who broke the machines that displaced them. A major factor in declining rail traffic is the hight cost of transportation. Diesels give promise of reducing costs and attracting new traffic—but economies can easily be nullified by feather bedding. Yet increased traffic is the only real guarantee of job security. Is it not time for rail unions and managements to get together and affirm their faith in an expanding economy, meanwhile making some provision for retraining and relocating temporarily displaced workers?

By striking only four lines, the union undoubtedly hopes to avoid the cry that a na-

tional emergency exists. But these lines are vital arteries to many parts of the country, and some sort of seizure may soon be necessary. Indeed, we think Congress ought to take another look at the Railway Labor Act, which is predicated on reasonable acceptance of the facts. Compulsory arbitration of rail disputes would have many undesirable ramifications, but it might be inescapable as a means of protecting the public interest—especially against a strike such as this one which seems to have resulted primarily from a union attempt to save face.

Mr. DONNELL. Mr. President, I ask unanimous consent that there likewise may appear in the body of the RECORD at this point an editorial from the New York Times of Thursday, May 11, 1950, on the same general matter, the railroad strike, the editorial being entitled "No Room for Compromise."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NO ROOM FOR COMPROMISE

Ever since the First World War the Nation's railroads have been fighting with their backs to the wall against the rising tide of competition from newer types of transportation—the passenger car, the motor truck, the airplane, and the pipe lines. This has placed a high premium on the achievement of increased operating efficiency. In recent years the carriers have found that one of the most effective instruments for this purpose was the introduction of Diesel-electric locomotives. Indeed, in the case of a good many roads, the shift to Diesels has just about meant the difference between earning a slight profit and operating in the red.

Since the movement toward Dieselization became general, however, two railroad brotherhoods—the firemen and the engineers—whose jurisdictional rivalry is only slightly less intense than that of a blood feud, have vied with each other to hijack the railroads, as it were, and appropriate for themselves the economic benefits represented by this costly investment program. When Diesel power was first introduced on the Burlington system in 1934 the locomotives were successfully and safely operated with one man in the cab, an engineer. Shortly thereafter, however, the Burlington was compelled under threat of a strike to add a fireman to its crew. And now for nearly a decade the two unions have been trying to push still further this packing of the engine crews, the one demanding a second engineer, the other insisting on an additional fireman.

In 1943 a Presidential fact-finding board found that there was no justification whatsoever for adding either more engineers or more firemen. In other words, the demands were rejected as being purely featherbedding, or make-work proposals. Although nothing had changed in the meanwhile to alter the situation, the firemen renewed their demand in 1947. After negotiation and mediation had failed President Truman named another fact-finding board. Like its predecessor, this board, in a ruling handed down last September, declared that the union suggestion was "devoid of merit." Although a Presidential fact-finding board is the court of last resort under the Railway Labor Act, the firemen's union appealed over the board's head to the White House, accompanying the appeal with threats of a strike in defiance of the Labor Act and the judicial opinion of the President's own appointive board. Yesterday the firemen put those threats into action. Their chieftain, David B. Robertson, pulled 18,000 members of the brotherhood off four of the Nation's key railroad systems in a strike which can only be described as a calculated outrage against the railroads, the Government, and the American public.

Although the number of railway firemen affected in this walkout is comparatively small, it is regarded as only a question of time before the strike produces a national emergency, crippling production in all parts of the Nation. This is a walkout which was coldly embarged upon, not in an effort to remedy some injustice, real or otherwise, but to impose by economic terrorism a demand which had been twice adjudicated by the highest railway-labor tribunal in the Nation, and twice found to be completely without justification. It is a strike to test whether the interest of the community is, or is not, paramount to that of any labor group which happens to find itself in a position to exploit the public to further its ends, however demonstrably unworthy and objectionable these may be. And it should not be necessary to say that in such a test there can be no room for compromise.

Mr. DONNELL. Mr. President, I ask unanimous consent that there likewise may appear in the body of the RECORD an editorial entitled, "An Indefensible Strike," published in the New York Herald Tribune of today.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

AN INDEFENSIBLE STRIKE

The strike on five great railway lines comes at the end of a 2-week special truce and after exhaustion of all the processes of delay and mediation provided by the Railway Labor Act. It is not surprising, considering the position of the railway union, that negotiations have thus far been futile. For the union is concerned, not with hours, not with wages or working conditions, but with a simple measure of featherbedding. Twice impartial fact-finding boards have denied the need for a second fireman on Diesel locomotives; but the union continues unremittingly to demand this unnecessary and wasteful addition to the crew. What neither safety nor convenience requires, and what sound operating procedure emphatically rejects, the union insists upon, even at the cost of disrupting a large part of the economy of the Nation.

The conversion to Diesel locomotives has been one of the most hopeful signs in American railroading. The pressing need of improving service and lowering fares and freight rates, to meet competition from other forms of transportation, has found the promise of a real answer in the development of the Diesel engine. Private capital has supplied the necessary investment; the Government has encouraged the conversion. It would be an economic tragedy if the gains thus envisaged were to be cast away by union short-sightedness. Technological unemployment is resisted by labor with an ardor for which the public may frequently have sympathy; but where this resistance takes the form of feather bedding as crude as in the present instance, and where the gains of technological progress are so direct for industry—and in the comparatively short run for labor, also—mere obstruction can seem a fatal policy. It is especially so in an area of labor where responsible unionism has long been the tradition, and where a wide-spread stoppage places such burdens on the public.

The present strike is indefensible. If the union has got itself into a position where negotiation is no longer fruitful, and where only retreat is possible, then for its own sake it will have to retreat.

ADDRESSES BY PRESIDENT OF THE UNITED STATES AT CASPER AND LARAMIE, WYO.

Mr. HUNT. Mr. President, I ask unanimous consent to have incorporated in the body of the RECORD, at this point in my remarks, two addresses delivered in my State by the President of the United States, one at Casper, Wyo., on May 9, and the other at Laramie, Wyo., on May 10.

There being no objection, the addresses were ordered to be printed in the RECORD, as follows:

ADDRESS BY THE PRESIDENT AT CASPER, WYO.

It's good to be back in Wyoming again.

Seeing this western country and talking to the people out here always reaffirms my faith in the vigor of this Nation and the glowing promise of its future.

This is my first visit to the West since 1948.

As you know, we have settled a number of issues since then. And we've settled them in the old-fashioned, American, democratic way. One of those issues is of particular importance here in the West. It concerns the policy this Naton is going to follow in developing its great wealth of natural resources.

In this country, there have always been two philosophies about the use of natural resources. One philosophy is that our resources should be exploited by a privileged few for their own benefit. This first philosophy holds that if we preserve or develop natural resources for the benefit of all the people, that is socialism, or some other form of ism.

The second philosophy holds that our natural resources are the cornerstone of a strong, free democracy. As such, they must be used to advance the well-being and the prosperity of all the people. This philosophy holds that it is necessary for democratic government to make sure that our land and water, our forests and our minerals, are used wisely, and not exploited for the benefit of a few.

You know which of these philosophies I believe in. It is the same one that the great majority of the American people believe in.

I am happy to be able to say that since I was out here in 1948, we have been making progress in strengthening the policy of using our resources for the benefit of all the people. This Congress has been moving forward—not backward.

I am particularly happy to say this to you here in Casper.

Wyoming is a State with tremendous natural resources. Here in Wyoming, the great plains of the West, with their abundant agricultural possibilities, rise to meet the high plateaus and mountains, rich in minerals and water power.

Not so long ago, this part of the country was considered "way out west." That phrase meant something more than physical distance. It expressed the attitude of too many people in important places in the East, toward the real needs of this great region.

This country, way out west, was a source of low-priced raw materials for the East. It was an area where eastern money could be invested for quick, spectacular profits. The real needs of this western country were not understood or appreciated. Because it was "way out west," too many people, both in and out of Government, just didn't care about the future of this part of the country.

You know where that spendthrift, careless philosophy led us. Much of the best range land was badly damaged, some almost beyond recovery. Precious topsoils were washed down the rivers. The cream was skimmed off the mineral deposits. The primary emphasis was on quick exploitation of resources. The whole idea was to make money quickly and then move on.

I am sure that you businessmen, farmers, and ranchers remember the tragic results of this philosophy. You are still fighting to recover from the loss and waste of that era. But now the American people are with you. They have renounced the narrow, selfish view of natural resources.

For 17 years, with one brief set-back, you have had a Government that recognizes its

81st Congress, 2d Session | HOUSE OF REPRESENTATIVES | Document No. 506

REORGANIZATION PLAN NO. 2 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 2 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF JUSTICE

MARCH 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of Justice. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 2 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Assistant Attorney General and an Administrative Assistant Attorney General. The rate of compensation fixed for these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 2 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF JUSTICE

Section 1. *Transfer of functions to the Attorney General.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Attorney General all functions of all other officers of the Department of Justice and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Justice, nor to the functions of the Federal Prison Industries, Inc., of the Board of Directors and officers of the Federal Prison Industries, Inc., or of the Board of Parole.

Sec. 2. *Performance of functions of the Attorney General.*—The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Justice of any function of the Attorney General, including any function transferred to the Attorney General by the provisions of this reorganization plan.

Sec. 3. *Deputy Attorney General.*—The title of "the Assistant to the Attorney General" is hereby changed to "Deputy Attorney General."

Sec. 4. *Assistant Attorney General.*—There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General. The office of Assistant Solicitor General, created by section 16 (a) of the Act of June 16, 1933 (48 Stat. 307), is hereby abolished, but the incumbent thereof immediately prior to the taking of effect of the provisions of this reorganization plan shall without reappointment be the First Assistant Attorney General in office under the provisions of this section.

Sec. 5. *Administrative Assistant Attorney General.*—There shall be in the Department of Justice an Administrative Assistant Attorney General, who shall be appointed, with the approval of the President, by the Attorney General under the classified civil service, who shall perform such duties as the Attorney General shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

Sec. 6. *Incidental transfers.*—The Attorney General may from time to time effect such transfers within the Department of Justice of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

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81st Congress, 2d Session | SENATE | Report No. 1683

REORGANIZATION PLAN NO. 2 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF JUSTICE

May 19 (legislative day, March 29), 1950.—Ordered to be printed

Mr. McClellan, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

By authority of the Reorganization Act of 1949 (Public Law 109, 81st Cong., 1st sess., June 20, 1949) the President of the United States has submitted to the Congress Reorganization Plan No. 2, providing for reorganizations in the Department of Justice. No disapproving resolution has been introduced in the Senate. The complete text of plan No. 2 is given in appendix A.

This committee, although under no requirement to do so by that act, hereby reports favorably on reorganization Plan No. 2, in order that the Senate may know the result of the committee's consideration thereof, and may have adequate information as to its provisions.

PLANS NOS. 1 TO 6 OF 1950

In a special message to Congress accompanying Reorganization Plans Nos. 1 to 13 of 1950, the President outlined the purpose of plans Nos. 1 to 6, inclusive, as follows:

> Reorganization Plans Nos. 1 to 6, inclusive, relate to the Departments of the Treasury, Justice, the Interior, Agriculture, Commerce, and Labor. With certain exceptions, these plans transfer to the respective Department heads the functions of other officers and agencies of the Departments. They permit each Department head to authorize the functions vested in him to be performed by any officer, agency, or employee of the Department. In addition, Administrative Assistant Secretaries are provided for each of the six Departments, and additional Assistant Secretaries are authorized for the Department of the Interior and the Department of Agriculture. * * *
>
> Through the years the Congress has repeatedly endorsed the policy of holding agency heads fully accountable for all the functions of their agencies. Last year this policy was pursued in the legislation authorizing reorganization of the Department of State and establishing the General Services Administration. A reorganization plan applying this principle to the Post Office Department was likewise approved.
>
> However, in the six departments covered by these plans, all functions are not now uniformly vested in the department heads. Some statutory authority is

held independently by subordinate officers and agencies. These plans extend fully to the six departments the principles of strengthening departmental management by eliminating the patchwork exceptions that now exist.

HOOVER COMMISSION RECOMMENDATIONS

Plans Nos. 1 to 6 do not transfer any organization units to new locations. They develop only the four following recommendations in Hoover Commission Report No. 1 on General Management, which are concerned with centralization of functions and an adequate supervisory staff:

> 14. Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.
> 16. Department heads must have adequate staff assistance if they are to achieve efficiency and economy in departmental operations.
> 18. Each department head should receive from the Congress administrative authority to organize his department * * *
> 20. We recommend that the department head should be given authority to determine the organization within his department * * *"

The same general recommendations are repeated in specific Hoover Commission reports on the six individual Departments named above, except that no report was made on the Department of Justice, the reorganization of which is authorized in plan No. 2.

PLAN NO. 2 OF 1950

Supplementing his more general message on Reorganization Plans Nos. 1–6, described above, the President also transmitted plan No. 2 on March 13, 1950, providing for reorganizations in the Department of Justice. Under the Reorganization Act of 1949 this plan becomes effective after 60 days of continuous session of Congress after the plan is transmitted, unless a majority of the authorized membership of either of the two Houses adopts a resolution of disapproval. Allowing for the House recess from April 6 to April 18, 1950, plan No. 2 will therefore become effective on May 24, 1950, unless a disapproving resolution is both introduced and acted on in either House before that date.

In accord with the content of plans 1–6 as a whole, and with the Hoover Commission recommendations cited above, plan No. 2 transfers—

> to the Attorney General all functions of all other officers of the Department of Justice and all functions of all agencies and employees of such Department.

Specific exceptions from this centralization of authority are made, however, of—

> the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners * * * of the functions of Federal Prison Industries, Inc., (and its) Board of Directors and officers * * *, or of the Board of Parole.

Plan No. 2 does not give to the Department of Justice any more powers, authority, functions, or responsibilities than it now has.

Plan No. 2 authorizes the Attorney General to delegate functions, to transfer "records, property, personnel, and unexpended balances" of funds required by reorganization, and to appoint an Administrative Assistant Attorney General under the classified civil service, with the

approval of the President, at a salary of $14,000 per year. The plan also authorizes the President, by and with the consent of the Senate, to appoint an additional Assistant Attorney General in place of the office of Assistant Solicitor General to be abolished. Finally, the title of "the Assistant to the Attorney General" is changed to "Deputy Attorney General."

By vesting in the Attorney General all functions of the Department of which he is the head (5 U. S. C. 291), plan No. 2 clarifies his authority with respect to a limited number of departmental functions for which authority is placed elsewhere by the statutes. There are, for example, certain functions placed by statute in the Commissioner of Immigration and Naturalization, and certain customs matters as to which the Assistant Attorney General is charged by name with the performance of statutory duties.

Except for these minor variants, the general statutory rule is in effect that the constituent bureaus of the Department of Justice are without autonomy, except insofar as the Attorney General has seen fit to give it to them. Some question has arisen about the possibility that under plan No. 2 the powers of the Attorney General are increased at the expense of the Federal Bureau of Investigation. While a few statutes provide for investigations to be made by the FBI, that Bureau already operates under the direction and control of the Attorney General, and the Director of the FBI is appointed by him. Hence plan No. 2 leaves the legal status of the FBI substantially unchanged.

CONCLUSION

No opposition to plan No. 2 was expressed to the committee. It does not involve the basic objections raised to some of the other plans because they transfer important quasi-judicial functions from statutory agencies to a department head. On the other hand, the plan works out desirable aspects of basic recommendations of the Hoover Commission.

The committee therefore recommends that no action of disapproval be taken in the Senate to prevent plan No. 2 from becoming effective on May 24, 1950.

APPENDIX A

[H. Doc. No. 506, 81st Cong., 2d sess.]

Message From the President of the United States Transmitting Reorganization Plan No. 2 of 1950 Providing for Reorganizations in the Department of Justice

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of Justice. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 2 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Assistant Attorney General and an Administrative Assistant Attorney General. The rate of compensation fixed for these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 2 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF JUSTICE

SECTION 1. *Transfer of functions to the Attorney General.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Attorney General all functions of all other officers of the Department of Justice and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Justice, nor to the functions of the Federal Prison Industries, Inc., of the Board of Directors and officers of the Federal Prison Industries, Inc., or of the Board of Parole.

SEC. 2. *Performance of functions of the Attorney General.*—The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Justice of any function of the Attorney General, including any function transferred to the Attorney General by the provisions of this reorganization plan.

SEC. 3. *Deputy Attorney General.*—The title of "the Assistant to the Attorney General" is hereby changed to "Deputy Attorney General."

SEC. 4. *Assistant Attorney General.*—There shall be in the Department of Justice one additional Assistant Attorney General, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall assist the Attorney General in the performance of his duties, and who shall receive compensation at the rate prescribed by law for other Assistant Attorneys General. The office of Assistant Solicitor General, created by section 16 (a) of the Act of June 16, 1933 (48 Stat. 307), is hereby abolished, but the incumbent thereof immediately prior to the taking of effect of the provisions of this reorganization plan shall without reappointment be the First Assistant Attorney General in office under the provisions of this section.

SEC. 5. *Administrative Assistant Attorney General.*—There shall be in the Department of Justice an Administrative Assistant Attorney General, who shall be appointed, with the approval of the President, by the Attorney General under the classified civil service, who shall perform such duties as the Attorney General shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 6. *Incidental transfers.*—The Attorney General may from time to time effect such transfers within the Department of Justice of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan

○

81st Congress } HOUSE OF REPRESENTATIVES { Document
2d Session } { No. 507

REORGANIZATION PLAN NO. 3 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 3 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF THE INTERIOR

MARCH 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of the Interior. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 3 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Assistant Secretary of the Interior and an Administrative Assistant Secretary of the Interior. The rate of compensation fixed for these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 3 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF THE INTERIOR

Section 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of the Interior all functions of all other officers of the Department of the Interior and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of the Interior, nor to the functions of the Virgin Islands Corporation or of its Board of Directors or officers.

Sec. 2. *Performance of functions of Secretary.*—The Secretary of the Interior may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of the Interior of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

Sec. 3. *Assistant Secretary of the Interior.*—There shall be in the Department of the Interior one additional Assistant Secretary of the Interior, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall perform such duties as the Secretary of the Interior shall prescribe, and who shall receive compensation at the rate prescribed by law for Assistant Secretaries of executive departments.

Sec. 4. *Administrative Assistant Secretary.*—There shall be in the Department of the Interior an Administrative Assistant Secretary of the Interior, who shall be appointed, with the approval of the President, by the Secretary of the Interior under the classified civil service, who shall perform such duties as the Secretary of the Interior shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

Sec. 5. *Incidental transfers.*—The Secretary of the Interior may from time to time effect such transfers within the Department of the Interior of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

○

81st Congress, 2d Session | SENATE | Report No. 1545

REORGANIZATION PLAN NO. 3 OF 1950, PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF THE INTERIOR

May 10 (legislative day, March 29), 1950.—Ordered to be printed

Mr. McClellan, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

By authority of the Reorganization Act of 1949 (Public Law 109, 81st Cong., 1st sess., June 20, 1949), the President of the United States has submitted to the Congress Reorganization Plan No. 3, providing for reorganizations in the Department of the Interior. The complete text of plan No. 3 is given in appendix A.

This committee, although under no requirement to do so by that act, hereby reports favorably on Reorganization Plan No. 3, in order that the Senate may know the result of the committee's consideration thereof, and may have adequate information as to its provisions.

In a special message to Congress accompanying Reorganization Plans Nos. 1 to 13 of 1950, the President outlined the purpose of plans Nos. 1 to 6, inclusive, as follows:

Reorganization Plans Nos. 1 to 6, Relating to Six Executive Departments

Reorganization Plans Nos. 1 to 6, inclusive, relate to the Departments of the Treasury, Justice, the Interior, Agriculture, Commerce, and Labor. With certain exceptions, these plans transfer to the respective department heads the functions of other officers and agencies of the departments. They permit each department head to authorize the functions vested in him to be performed by any officer, agency, or employee of the department. In addition, Administrative Assistant Secretaries are provided for each of the six departments, and additional Assistant Secretaries are authorized for the Department of the Interior and the Department of Agriculture * * *.

Through the years the Congress has repeatedly endorsed the policy of holding agency heads fully accountable for all the functions of their agencies. Last year this policy was pursued in the legislation authorizing reorganization of the Department of State and establishing the General Services Administration. A reorganization plan applying this principle to the Post Office Department was likewise approved.

However, in the six departments covered by these plans, all functions are not now uniformly vested in the department heads. Some statutory authority is held independently by subordinate officers and agencies. These plans extend

fully to the six departments the principles of strengthening departmental management by eliminating the patchwork exceptions that now exist.

HOOVER COMMISSION RECOMMENDATIONS

Plans Nos. 1–6 do not transfer any organization units to new locations. They develop only the four following recommendations in Hoover Commission Report No. 1 on general management, which are concerned with centralization of functions and an adequate supervisory staff:

14. Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.

* * * * * * *

16. Department heads must have adequate staff assistance if they are to achieve efficiency and economy in departmental operations.

* * * * * * *

18. Each department head should receive from the Congress administrative authority to organize his department * * *

* * * * * * *

20. We recommend that the department head should be given authority to determine the organization within his department * * *

Following up this series of general recommendations, Hoover Commission Report No. 14 on the Department of the Interior opened its discussion of over-all departmental management, as follows:

We have urged in our first report that the foundation of good departmental administration is that the Secretary shall have authority from the Congress to organize and control his organization, and that congressional grants of independent authority to subordinates be eliminated.

Report No. 14 added the following comment as to department staff:

In making the following recommendations as to the assignment of officials and the service grouping of agencies, we are proposing no inflexible rules. The responsibility for these assignments should lie with the Secretary. Parts of such organizations are already in force.

Plan No. 3 relates only to the centralization of authority in the Secretary of the Interior over his Department. Hence it does not cover other recommendations in Hoover Commission Report No. 14 on the Department of the Interior, which propose (1) a Board of Impartial Analysis; (2) the transfer to the Department of the Interior of the civil functions of the Corps of Engineers, FWA building construction, the FWA Bureau of Community Facilities, a Texas City tin smelter, and other major construction; and (3) the transfer out of the Department of the Interior of the Bureau of Indian Affairs, the Bureau of Land Management, and the commercial fisheries activities of the Department's Fish and Wildlife Service.

ANALYSIS OF PLAN NO. 3 OF 1950

Supplementing his more general message on Reorganization Plans Nos. 1–6, described above, the President also transmitted Plan No. 3 on March 13, 1950, providing for reorganizations in the Department of the Interior. Under the Reorganization Act of 1949 this plan becomes effective after 60 days of continuous session of Congress after the plan is transmitted, unless a majority of the authorized member-

ship of either of the two Houses adopts a resolution of disapproval. Allowing for the House recess from April 6 to 18, 1950, Plan No. 3 will therefore become effective on May 24, 1950.

In accord with the content of plans Nos. 1–6 as a whole and with the Hoover Commission recommendations cited above, plan No. 3 transfers—

to the Secretary of the Interior all functions of all other officers of the Department of the Interior and all functions of all agencies and employees of such Department.

Specific exceptions from the centralization of authority are made, however, of—

the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of the Interior, (and) the functions of the Virgin Islands Corporation or of its Board of Directors or officers.

Plan No. 3 authorizes the Secretary of the Interior to delegate functions to transfer "records, property, personnel, and unexpended balances" of funds insofar as necessary to work out a shift of functions under the plan. The plan also authorizes the appointment of an Administrative Assistant Secretary of the Interior under the classified civil service, with the approval of the President, at a salary of $14,000 per year, and authorizes the President, by and with the advice and consent of the Senate, to appoint an additional Assistant Secretary of the Interior. These latter two provisions accord with recommendations of the Hoover Commission.

The following summary list shows the operating units of the Department of the Interior, arranged in the order of number of employees on January 1, 1950.[1] The Secretary of the Interior has full and complete authority over the two agencies where titles are shown in italics. Such authority in the remaining operating units has either been placed in the operating head, or, in a number of cases, in a subordinate official but subject to general direction of the Secretary of the Interior.

	Number of employees
1. Bureau of Reclamation	16, 319
2. Bureau of Indian Affairs	12, 335
3. Geological Survey	7, 439
4. Bureau of Mines	4, 085
5. Government in the Territories	3, 880
6. National Park Service	3, 164
7. Fish and Wildlife Service	2, 969
8. Bonneville Power Administration	2, 280
9. *Bureau of Land Management*	1, 175
10. Office of the Secretary	562
11. *Southwestern Power Administration*	173
12. Commission of Fine Arts	2
Total employees	54, 383

Plan No. 3 would vest in the Secretary of the Interior complete authority over all of the above operating units, except as to the Virgin Islands Corporation and its officials which are part of the general item: "Government in the Territories."

[1] Organization of Executive Departments and Agencies. Committee Report No. 9, Senate Committee on Expenditures in the Executive Departments, January 1, 1950.

CONCLUSION

No opposition to plan No. 3 has been filed with the committee. It does not involve the basic objections raised against some of the other plans, that they improperly transfer important quasi-judicial functions from subordinate agencies to department heads. On the other hand, the plan works out desirable aspects of very important basic recommendations of the Hoover Commission, urging that authority and responsibility be centralized in department heads and not scattered wholly or partially among subordinate agencies.

The committee therefore recommends that no action of disapproval be taken in the Senate to prevent plan No. 3 from becoming effective on May 24, 1950.

APPENDIX A

Reorganization Plan No. 3 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF THE INTERIOR

Section 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of the Interior all functions of all other officers of the Department of the Interior and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of the Interior, nor to the functions of the Virgin Islands Corporation or of its Board of Directors or officers.

Sec. 2. *Performance of functions of Secretary.*—The Secretary of the Interior may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of the Interior of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

Sec. 3. *Assistant Secretary of the Interior.*—There shall be in the Department of the Interior one additional Assistant Secretary of the Interior, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall perform such duties as the Secretary of the Interior shall prescribe, and who shall receive compensation at the rate prescribed by law for Assistant Secretaries of executive departments.

Sec. 4. *Administrative Assistant Secretary.*—There shall be in the Department of the Interior an Administrative Assistant Secretary of the Interior, who shall be appointed, with the approval of the President, by the Secretary of the Interior under the classified civil service, who shall perform such duties as the Secretary of the Interior shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

Sec. 5. *Incidental transfers.*—The Secretary of the Interior may from time to time effect such transfers within the Department of the Interior of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

○

81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 508

REORGANIZATION PLAN NO. 4 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 4 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF AGRICULTURE

MARCH 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of Agriculture. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 4 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of two Assistant Secretaries of Agriculture and an Administrative Assistant Secretary of Agriculture. The rate of compensation fixed for these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 4 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF AGRICULTURE

Section 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Agriculture all functions of all other officers of the Department of Agriculture and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Agriculture nor to the functions of the corporations of the Department of Agriculture, of the boards of directors and officers of such corporations, or of the Advisory Board of the Commodity Credit Corporation.

Sec. 2. *Performance of functions of Secretary.*—The Secretary of Agriculture may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Agriculture of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

Sec. 3. *Assistant Secretaries of Agriculture.*—There shall be in the Department of Agriculture two additional Assistant Secretaries of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall perform such duties as the Secretary of Agriculture shall prescribe, and who each shall receive compensation at the rate prescribed by law for Assistant Secretaries of executive departments.

Sec. 4. *Administrative Assistant Secretary.*—There shall be in the Department of Agriculture an Administrative Assistant Secretary of Agriculture, who shall be appointed, with the approval of the President, by the Secretary of Agriculture under the classified civil service, who shall perform such duties as the Secretary of Agriculture shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

Sec. 5. *Incidental transfers.*—The Secretary of Agriculture may from time to time effect such transfers within the Department of Agriculture of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

○

81ST CONGRESS
2D SESSION

S. RES. 263

IN THE SENATE OF THE UNITED STATES

APRIL 24 (legislative day, MARCH 29), 1950

Mr. HOLLAND (for himself, Mr. SCHOEPPEL, Mr. JOHNSTON of South Carolina, and Mr. THYE) submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 4 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 263

RESOLUTION

Disapproving Reorganization Plan Numbered 4 of 1950.

By Mr. HOLLAND, Mr. SCHOEPPEL, Mr. JOHNSTON of South Carolina, and Mr. THYE

APRIL 24 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

REORGANIZATION PLAN NO. 4 OF 1950

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HEARINGS

BEFORE THE

COMMITTEE ON EXPENDITURES IN THE EXECUTIVE DEPARTMENTS

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UNITED STATES SENATE

EIGHTY-FIRST CONGRESS

SECOND SESSION

ON

S. Res. 263

DISAPPROVING

Reorganization Plan No. 4 (Department of Agriculture)

MAY 2 AND 3, 1950

Printed for the use of the
Committee on Expenditures in the Executive Departments

UNITED STATES
GOVERNMENT PRINTING OFFICE
66616 WASHINGTON : 1950

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REORGANIZATION PLAN NO. 4 OF 1950

TUESDAY, MAY 2, 1950

UNITED STATES SENATE,
COMMITTEE ON EXPENDITURES IN
THE EXECUTIVE DEPARTMENTS,
Washington, D. C.

The committee met, pursuant to call, at 10 a. m., in room 357, Senate Office Building, Senator John L. McClellan (chairman) presiding.

Present: Senators McClellan, Leahy, Mundt, Margaret Chase Smith, and Schoeppel.

Also present: Senator Aiken. Walter Reynolds, chief clerk.

The CHAIRMAN. The committee will come to order. We shall proceed this morning with hearings on Senate Resolution 263, introduced by Senators Holland, Schoeppel, Johnston of South Carolina, and Thye, for the disapproval of the President's Reorganization Plan No. 4.

At this point we shall place in the record the President's message of transmittal and the plan and, following that, the resolution to which I have referred. Then immediately following that in the record, I should like to have published a staff memorandum making an analysis of the plan.

(The information referred to follows:)

[H. Doc. No. 508, 81st Cong., 2d sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING REORGANIZATION PLAN NO. 4 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF AGRICULTURE

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of Agriculture. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 4 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of two Assistant Secretaries of Agriculture and an Administrative Assistant Secretary of Agriculture. The rate of compensation fixed for these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 4 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF AGRICULTURE

Section 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Agriculture all functions of all other officers of the Department of Agriculture and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Agriculture nor to the functions of the corporations of the Department of Agriculture, of the boards of directors and officers of such corporations, or of the Advisory Board of the Commodity Credit Corporation.

Sec. 2. *Performance of functions of Secretary.*—The Secretary of Agriculture may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Agriculture of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

Sec. 3. *Assistant Secretaries of Agriculture.*—There shall be in the Department of Agriculture two additional Assistant Secretaries of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall perform such duties as the Secretary of Agriculture shall prescribe, and who each shall receive compensation at the rate prescribed by law for Assistant Secretaries of executive departments.

Sec. 4. *Administrative Assistant Secretary.*—There shall be in the Department of Agriculture an Administrative Assistant Secretary of Agriculture, who shall be appointed, with the approval of the President, by the Secretary of Agriculture under the classified civil service, who shall perform such duties as the Secretary of Agriculture shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

Sec. 5. *Incidental transfers.*—The Secretary of Agriculture may from time to time effect such transfers within the Department of Agriculture of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

[S. Res. 263, 81st Cong., 2d sess.]

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 4 of 1950 transmitted to Congress by the President on March 13, 1950.

Senate Committee on Expenditures in the Executive Departments,
April 28, 1950.

Staff memorandum No. 81–2–56.

Subject: Senate Resolution 263 (Senators Holland, Johnston of South Carolina, Schoeppel, and Thye), Disapproving Reorganization Plan No. 4 of 1950, Relative to Reorganization of the Department of Agriculture.

This memorandum is intended to supplement staff memorandum No. 81–2–40, dated March 25, 1950, which contained a broad explanation of the first six reorganization plans, their relationship to the Hoover Commission recommendations and some of the issues involved in the plans.

Section 1 of Reorganization Plan No. 4 proposes to transfer all of the functions now vested in other officers, employees, and agencies of the Department of Agriculture to the Secretary, except the functions conferred on:

(*a*) Hearing examiners.
(*b*) Corporations—Department of Agriculture.
(*c*) Boards of directors and officers of such corporations.
(*d*) Advisory Board of Commodity Credit Corporation.

Section 2 of the plan authorizes the Secretary of Agriculture to redelegate his responsibility to any officer, employee, or agency within the Department, as he deems appropriate.

Section 3 would authorize the establishment of two additional Assistant Secretaries who will be appointed by the President by and with advice and consent of the Senate. Section 4 would authorize the establishment of an Office of Administrative Assistant Secretary to be appointed from the classified civil service at a salary of $14,000 annually.

Section 5 would authorize the Secretary of Agriculture to transfer any of the records, property, personnel, and funds from the present offices and activities to the new offices if and when such functions are transferred by the Secretary, pursuant to the provisions of this plan. (See appendix A, for offices affected.)

RESOLUTION OF DISAPPROVAL

On April 24, 1950, Senators Holland, Schoeppel, Johnston of South Carolina, and Thye, introduced Senate Resolution 263 providing for disapproval of Reorganization Plan No. 4. Hearings have been scheduled to start on May 2, 1950, at which time Senators Holland, Schoeppel, and Thye have indicated that they would testify in favor of the resolution. Unless a majority of the full membership of the Senate approves Senate Resolution 263 by May 24, 1950, plan No. 4 will become effective on that date. (This date takes into consideration the 11-day Easter recess taken by the House of Representatives.)

PURPOSE AND INTENT OF PLAN NO. 4

The purpose of Reorganization Plan No. 4 is to "transfer to the head of the departments the functions and powers now conferred by law on subordinate officials." Another reason for this plan is contained in the President's general message which contains the following objective of the first 13 plans:

"To establish clear and direct lines of authority and responsibility for the management of the executive branch."

In the President's message on plans 1 to 13, dated March 13, 1950, the following objectives are enumerated in support of plan No. 4:

"First, they provide a clearer line of responsibility and authority from the President through the department heads down to the lowest level of operations in each department.

"Second, department heads are made responsible in fact for activities within their agencies for which they are now, in any case, held accountable by the President, the Congress, and the people.

"Third, department heads are enabled to effect appropriate internal adjustments as may be necessary within their departments to permit the most effective organization of departmental resources and bring about continuous improvement in operations."

HOOVER COMMISSION RECOMMENDATIONS

The Commission on Organization of the Executive Branch of the Government submitted 16 recommendations in its report on the Department of Agriculture designed to bring about better organization, improved management, and more effective administration. The Commission also made specific recommendations in its report on general management which apply to all departments. (Outlined in staff memorandum No. 81–2–40, enclosure A.)

Reorganization Plan No. 4 is designed to extend the functional organization of the Department and group activities relating to major purpose functions (recommendation No. 1), and provide additional top-level management assistance (two Assistant Secretaries and an Administrative Assistant Secretary, recommendation No. 2). In this connection, it should be noted that the Hoover Commission recommended that one Assistant Secretary be added to the staff whereas this plan provides for establishing two Assistant Secretaries.

The Commission further recommended that the operational functions of the Department of Agriculture be grouped into eight major units, as follows:

1. Staff services.
2. Research services.
3. Extension services.
4. Agricultural resources conservation services.
5. Commodity adjustment services.
6. Regulatory services.
7. Agricultural credit services.
8. Rural electrification service.

An organization chart was prepared and inserted in the Commission's report on the Department of Agriculture (p. 9) showing how the top structure of the departmental service may be reorganized. However, the Commission took

the position that the Secretary should be free to change the organization and "assign the duties of the Assistant Secretaries" as he deems advisable.

None of these proposals are specifically covered by plan No. 4, but the plan would give the Secretary the necessary authority to put them into effect.

VIEWS OPPOSING PLAN NO. 4

As indicated in appendix B of this memorandum, seven of the eight members of the task force of the Hoover Commission recommended to the committee that Reorganization Plan No. 4 be returned to the President with a suggestion that the following sentence be added to section 2 of the plan:

"In carrying out the provisions of this section, the Secretary shall be guided by the purposes expressed in section 2 (a) of the Reorganization Act of 1949 and by the plan of organization proposed for the Department of Agriculture by the Commission on Organization of the Executive Branch of the Government."

It is understood that all of the former task force members except Mr. John M. Gaus has approved this recommendation; in effect, to disapprove the plan, since it cannot be amended. The task force believes that the Secretary of Agriculture should be given authority to reorganize the Department following the organization plan recommended by the task force. Any such authorization by Congress should be so drafted as to enable the Secretary to deal more effectively with the vested interests of the Department and should follow reorganizations outlined by the Hoover Commission.

The impact of the above-outlined objection to the plan is that it is ineffective and will not accomplish the purposes outlined in the Reorganization Act of 1949, because the Secretary of Agriculture already has all of the necessary authority to administer the far-reaching programs under his control, see appendix C, except such functions as are vested by law in the Solicitor, and possibly some other functions that are performed by the Administrator of the Rural Electrification Administration, the Farm Credit Administration, and the Chief of the Soil Conservation Service. Corporations administered in the Department are exempt under the plan.

Opponents of the plan contend that it is a blank check to the Secretary, authorizing him to reorganize the Department in any manner without any guide or restraint as to when or how it should be done. In addition to the foregoing it is contended that the Secretary presently has the authority to reorganize the Department under the broad jurisdiction of his office and, therefore, does not need additional authorization from the Congress to effectuate economies and efficiencies contemplated under the reorganization plan.

Another argument or question raised in connection with this plan was that last year the Bureau of the Budget advised the committee that additional substantive legislation would be required to place into effect recommendation No. 2 (to establish the positions of additional Assistant Secretaries), now included in a reorganization plan.

In summation, the following points have been raised against Reorganization Plan No. 4:

1. The plan lacks assurance that the Hoover Commission recommendations and those of the task force will be seriously considered and given substantial weight in reorganization of the Department of Agriculture.
2. The plan is a carte blanche grant of authority to the Secretary without guide or plan.
3. The plan contains no directives in support of any efforts the Secretary may make—leaving him in a weak position with respect to interorganizational differences.
4. The plan is objectionable on the grounds that it is an unwise grant of general authority and power.
5. The plan and the statement of the President relative to it, indicate that it will effect no savings to the Government directly.
6. It accomplished by a reorganization plan, objectives which should be provided only by substantive legislation, i. e.; it constitutes a blank-check authority.
7. The plan seeks to provide for additional secretaries which the Bureau of the Budget has heretofore held could only be authorized by substantive legislation.
8. The plan contains the grave danger of overcentralization of control of administration without any appropriate check retained in the legislative branch.

GLENN K. SHRIVER,
Professional Staff Member.

Approved:

WALTER L. REYNOLDS, *Staff Director.*

Appendix A

Senate Committee on Expenditures
in the Executive Departments,
March 25, 1950.

Staff Memorandum No. 81–2–40.
Subject: Reorganization Plans 1 to 6 of 1950: Centralization of functions in (1) Treasury, (2) Justice, (3) Interior, (4) Agriculture, (5) Commerce, and (6) Labor Departments.

On March 13, 1950, the President transmitted various messages to Congress for reorganization of Government agencies, under authority of the Reorganization Act of 1949: (*a*) A general message discussing 21 proposed individual plans as a whole; (*b*) another general message on the first 13 of the 21 plans; and (*c*) 21 messages presenting individual plans. His first general message describes plans 1 to 13 as designed "to establish clear and direct lines of authority and responsibility for the management of the executive branch" which is urged in general terms in Hoover Commission Report No. 1 on General Management, and in specific terms in Commission reports on individual departments.

The second general message discusses more fully the centralization in six department heads of the functions now scattered among subordinate officials (the other three Cabinet Departments of State, Defense, and Post Office were acted on last year). It emphasizes a "principal finding of the Hoover Commission (that) the first and essential step in the search for economy and efficiency in the executive branch of the Government is to correct the present diffusion of authority and confusion of responsibility * * *. Without this action all other steps to improve organization are doomed to failure * * *. The heads of departments must hold full responsibility for the conduct of their departments (and) department heads must have adequate staff assistance * * *."

The second message then states that the above Hoover Commission finding is developed in plans 1 to 6 through provision of "* * * a clear line of responsibility and authority from the President through the department heads down to the lowest level of operation in each department * * *. Each department head (is provided an Administrative Assistant Secretary) to assist him in the managerial side of his responsibilities (because) specific improvements in management can be made only through continuous attention to the effective performance of such aids to management as budgeting, accounting, personnel, and management analysis. Appointment of these new civil-service officials by the department heads with the approval of the President will tend to establish a career pattern for these positions extending across departmental lines. (Additional Assistant Secretaries) will provide more adequate staff assistance in supervising and directing the policies and programs * * *."

HOOVER COMMISSION RECOMMENDATIONS

Plans 1 to 6 do not transfer any organization units to new locations. They develop only the four following recommendations in Hoover Commission Report No. 1 on General Management, which are concerned with centralization of functions and an adequate supervisory staff:

"14. Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.

"16. Department heads must have adequate staff assistance if they are to achieve efficiency and economy in departmental operations.

"18. Each department head should receive from the Congress administrative authority to organize his department * * *.

"20. We recommend that the department head should be given authority to determine the organization within his department * * *."

The same general tenor of these recommendations were repeated in Hoover Commission reports on each of the above-named departments (no report was made on Justice).

ANALYSIS OF PLANS 1 TO 6 OF 1950

Centralization of functions.—The plans transfer to each of the Secretaries named "all functions of all other officers of (the department) and all functions of all agencies and employees of such department," except those of hearing examiners employed by the department. Further exceptions are made in individual departments as follows: In the Treasury, to the Coast Guard in time of war, or when the

President so directs; in Justice, to Federal Prison Industries, Inc., and the Board of Parole; in Interior, to the Virgin Islands Corporation; in Agriculture, to corporations of the Department, and to the Advisory Board of the Commodity Credit Corporation; and in Commerce, to the Civil Aeronautics Board, and the Inland Waterways Corporation, and its Advisory Board.

Other provisions.—Plans 1 to 6 authorize each Secretary to delegate functions, to transfer "records, property, personnel, and unexpended balances of appropriations," and to appoint an Administrative Assistant Secretary under the classified civil service, with the approval of the President, at $14,000 per year. In addition, the President is authorized to appoint Assistant Secretaries, subject to confirmation by the Senate, at the usual salary, as follows: One in Interior, in addition to two now authorized; two in Agriculture, in addition to one now in office (only one addition is urged in the Hoover Report on the Department of Agriculture); and one in Justice, who will replace an Assistant Solicitor General to be abolished, and who will supplement the six present Assistant Attorneys General and one Solicitor General. No addition is proposed to the present three in the Labor Department, and to two each in Commerce and Treasury Departments. (Hoover Task Force Report E on Departmental Management recommends at least three Assistant Secretaries in "even the smallest department".)

ISSUES INVOLVED

The limited opposition to plans 1 to 6 thus far indicated follows:

Plan 1. Treasury Department.—The American Banker, banking newspaper, is opposing centralization of Treasury functions because it "would further detract from the prestige and authority of the 'self-supporting' Office of the Comptroller of the Currency." This old Office supervises and controls national banks, especially through regular examinations, meets with the FDIC, and reports to Congress. The newspaper states that few bankers will "question the present Secretary of the Treasury * * * since he was, at one time, a national bank examiner (but) future Secretaries of the Treasury might, in effect, virtually end the Office's time-honored functions," and adds that the merger of Treasury and Comptroller legal divisions under Mr. Morgenthau's regime "in effect, ended the assumed independence of the Comptroller."

Plan 2. Justice.—There has been some oral objection voiced to the proposed centralization of powers in the Attorney General weakening the status of the FBI. Actually, the plan would increase his present powers in but small degree.

Plan 6. Labor.—This plan would centralize in the Secretary all functions throughout the Department of Labor. It was included in the original 1947 proposal to return the United States Employment Service to the Department of Labor, but was dropped before that return was authorized after two rejections by Congress. The present limited plan again raises the question of the propriety of a head of a Labor Department (which, by organic act of 1913, is dedicated to fostering "primarily" the welfare of the "wage earner") taking over regional determinations under the Fair Labor Standards Act relative to wages and hours, now independently administered by the Administrator of the combined Wage and Hour and Public Contracts Divisions. In practice, the same division personnel, both departmental and field, takes care of wage, hours, safety, and other requirements of the Public Contracts Act, and the child-labor provisions of the Fair Labor Standards Act, although the Secretary of Labor has ultimate authority.

With respect to all six plans, it is to be expected that objections will frequently be voiced over any disturbance of the status quo of subordinate officials. The basic question pertinent to each plan is whether power should be centralized in the responsible department head, or be scattered among his subordinates.

HERMAN C. LOEFFLER,
Professional Staff Member.

Approved:

WALTER L. REYNOLDS,
Staff Director.

APPENDIX B

UNIVERSITY OF ILLINOIS,
COLLEGE OF AGRICULTURE,
Urbana, Ill., April 7, 1950.

Hon. JOHN L. MCCLELLAN,
United States Senate, Washington, D. C.

DEAR SENATOR MCCLELLAN: All but one of the eight members of the former Task Force on Agriculture of the Commission on Organization of the Executive Branch of the Government feel that the problems discussed in the attached statement are of the utmost importance, and they urge your careful attention.

Yours very truly,

H. P. RUSK,
Chairman, Task Force on Agriculture.

STATEMENT REGARDING REORGANIZATION PLAN NO. 4 OF 1950

Members of the agricultural task force of the Commission on Organization of the Executive Branch of the Government are concerned about the growing opposition to Reorganization Plan No. 4 of 1950 providing for reorganizations in the Department of Agriculture as submitted to the Congress on March 13, 1950, by President Truman.

In order to strengthen the hands of the Secretary in dealing with reorganization of vested interests, safeguard the basic principles set forth in section 2 (a) of the Reorganization Act of 1949, and assure that insofar as possible under existing laws the Commission's recommendations will be adhered to, we recommend that Congress return Reorganization Plan No. 4 of 1950 to the President with the suggestion that he resubmit it after adding to section 2 the following sentence: "In carrying out the provisions of this section, the Secretary shall be guided by the purposes expressed in section 2 (a) of the Reorganization Act of 1949 and by the plan of organization proposed for the Department of Agriculture by the Commission on Organization of the Executive Branch of the Government."

Plan No. 4 as drafted authorizes more top-level assistance for the Secretary and transfers to him all functions for which the Department is responsible, except certain of those of hearing examiners and those of corporations of the Department of Agriculture and their personnel. Aside from these exceptions noted in section 1 (b) of plan No. 4, the Secretary is given carte blanche authority for reorganization of the Department. True, the President, in his letter transmitting plan No. 4 to the Congress, refers to section 2 (a) of the Reorganization Act of 1949 as a basis for his action; but only by this remote reference can the purposes set forth in that section be considered as a directive, guide, or plan for the Secretary in carrying out needed reorganization of the Department of Agriculture.

Section 2 (a) of the Reorganization Act of 1949 is a declaration of the purposes of reorganization rather than a guide or plan for reorganization. The purposes stated do not differ greatly from those set forth in Public Law 162 (80th Cong.) creating the Commission on Organization of the Executive Branch of the Government—and only with respect to such statement of purposes does section 2 (a) correspond to the recommendations of the Commission. The report of the Commission is much more than a statement of purposes—it submits an outline of a plan of organization to accomplish those purposes.

Reorganization Plan No. 4 recognizes the necessity of placing in the hands of the Secretary sufficient authority to accomplish the general objectives of the Commission report. But as it stands it offers no directives in support of any efforts the Secretary may make toward adoption of the basic administrative grouping of functions recommended by the Commission.

In the light of past experience when attempts have been made to secure a more effective and economical organization of this and other departments of the Executive Branch of the Government, it is no reflection upon the motives or ability of the Secretary to say that the absence of more specific directives places him in a very weak position with regard to vested interests in the Department.

A statement by the Honorable Herbert Hoover while Secretary of Commerce makes clear how important it is to provide for the Secretary strong support in dealing with these vested interests. The following paragraphs are quoted from testimony offered by him before a Joint Committee on Reorganization of the Administrative Branch of the Government on January 22, 1924:

"I do not believe that any Government reorganization will ever take place that will meet with agreement among the executive heads of the Government. Cabinet

heads necessarily take color from their subordinates and surbordinates are, from the nature of things, bound to be in opposition to serious changes. If there is to be reorganization it will have to be carried out by Congress and the President. The men who are at the head of various bureaus and secondary functions of the Government believe honestly and earnestly in the purpose of their service and they are bound to object to any change which seems to them would decrease their activities, reduce their personnel, or require them to take a less important position in some other grouping. They naturally and properly feel that the service which they direct is the most important function of the entire Government and that minimizing it in any direction would be wrong.

"Some of them feel so strongly that they feel it right to engage in propaganda in opposition to change. The cumulation of such activities from many sources are likely to break down every attempt at reorganizations * * * No one deserves higher admiration than the permanent officials of the Government, but long years of experience in reorganization of private concerns and some years of experience in the Government have led me to believe that if the overlap and waste in the Federal Government is to be eliminated it must be handed down from on high and not attempted as the results of agreements, for they can never be brought about."

Senator Clinton P. Anderson, who as former Secretary of Agriculture is familiar with the problems involved, had this to say in support of the plan proposed by the Commission:

"If we approach every proposed reorganization of the Department of Agriculture with the condition that no employee is to be separated from his task, that no responsibility is to be lessened, that no services are to be regrouped, then no progress will be made either toward increased efficiency or reduced costs. It is only when there is determination that simplification must and will be achieved regardless of who is involved or how many positions are abolished that there can be any effective result * * *.

"Therefore, I suggest that we start by agreeing that reorganization is possible and should be undertaken. The plan proposed by the Hoover Commission may not be the only one that could be developed. It is, however, available and specific. It deals directly with conditions as they now exist. In the absence of a current and better proposal, it deserves a trial."

The majority of the members of the former Agricultural Task Force of the Commission on Organization of the Executive Branch of the Government feel strongly that the addition to the language of Reorganization Plan No. 4 suggested above would supply only the bare minimum in the way of guidance or directive for the needed reorganization of the Department of Agriculture. All but one of the eight members of the Task Force have approved the substance of this statement and, as former chairman of the group, I am submitting it in their behalf.

Respectfully submitted.

H. P. Rusk.

Members of the Task Force on Agriculture, Commission on Organization of the Executive Branch of the Government, concurring: William Rhea Blake, Chester C. Davis, D. Howard Doane, Frank W. Peck, W. A. Schoenfeld, W. H. Martin (Vice Chairman), H. P. Rusk (Chairman).

APPENDIX C

List of offices, bureaus, and organizational units now established in the Department of Agriculture, together with the legal authority for administering the functions assigned to each office

Office	Responsible official	Statutory authority
1. Staff offices:		
Budget and Finance	Secretary	5 U. S. C. 512.
Personnel		
Information		
Plant and Operations		
Foreign and Agricultural Relations		
Library		
2. Solicitor [1]	Solicitor	5 U. S. C. 518.
3. Bureau of Agricultural Economics	Chief of Bureau	7 U. S. C. 411.
4. Agricultural Research Administration	Secretary	Reorganization Plan No. 1 of 1947.
5. Production and Marketing Administration	do	Reorganization Plan No. 3 of 1946.
6. Commodity Exchange Authority	do	7 U. S. C. 1–17.
7. Extension Service	do	7 U. S. C. 342.
8. Forest Service	do	16 U. S. C. 471, 472, and 551.
9. Soil Conservation Service	do	16 U. S. C. 590e.
10. Farmers Home Administration [2]	do	7 U. S. C. 1015.
11. Rural Electrification Administration [3]	do	7 U. S. C. 901; Reorganization Plan 2 of 1939.
12. Farm Credit Administration (Federal Intermediate Credit) (Production Credit Corporation).	do	Executive Order 6084 under Reorganization Act of 1933.

[1] 5 U. S. C. 518 provides that the legal work of the Department shall be performed under the supervision of the Solicitor. If plan No. 4 becomes effective the Secretary may abolish the Solicitor's Office and establish a General Counsel or transfer his functions elsewhere in the Department.

[2] Authority is vested in the Secretary. The Administrator is appointed by the President with advice and consent of Senate. Organization of Farmers Home Administration is fixed by statute.

[3] Authority is vested in the Secretary but it must be administered through the Rural Electrification Administrator.

NOTE.—Hearing examiners, Government corporations (Commodity Credit Corporation, banks for cooperatives, Federal Crop Insurance Corporation, Federal Farm Mortgage Corporation, Federal Intermediate Credit Corporation, Federal land banks, and production credit corporations) and the Advisory Board of the Commodity Credit Corporation are not included in this chart because they are specifically excluded from plan No. 4.

The CHAIRMAN. Our first witness is Senator Holland. You are one of the sponsors of the resolution. We shall be glad to hear from you.

STATEMENT OF HON. SPESSARD L. HOLLAND, A UNITED STATES SENATOR FROM THE STATE OF FLORIDA

Senator HOLLAND. Thank you, Mr. Chairman. I am grateful for the privilege of appearing before this committee in behalf of Senate Resolution 263, which I introduced in the Senate on April 24, for myself, and for Senator Schoeppel, Senator Johnston of South Carolina, and Senator Thye of Minnesota.

This resolution reads as follows:

Resolved, That the Senate does not favor the Reorganization Plan Numbered 4 of 1950 transmitted to Congress by the President on March 13, 1950.

In addition to the sponsors of this resolution, theree are present today others who will testify in support of the resolution, and at this time I desire to read their names into the record.

Dean H. P. Rusk, of the College of Agriculture, and director of extension of the University of Illinois, Urbana, Ill.

Mr. William Rhea Blake, executive vice president of the National Cotton Council of America, of Memphis, Tenn.

Dean Rusk was chairman of the task force on agriculture of the Commission on Organization of the Executive Branch of the Government, generally known as the Hoover Commission, and Mr. Blake was a member of the task force.

In addition to these two gentlemen, other members of the task force on agriculture are present, including Mr. Frank W. Peck, the director of the Farm Foundation of Chicago, Ill., and Mr. W. A. Schoenfeld, dean of the College of Agriculture, and director of extension of Oregon State College. The last-two-named gentlemen are here to answer any questions the committee may ask, but otherwise do not plan to testify.

In addition to these, Mr. John H. Davis, executive secretary of the National Council of Farmer Cooperatives is here, and will testify. Likewise, Mr. R. E. Short, vice president of the American Farm Bureau Federation; likewise Mr. J. T. Sanders, legislative counsel of the National Grange.

The following gentlemen are here in behalf of this resolution, but I do not believe they plan to testify unless called upon by the committee:

Mr. John Ford, secretary of the Florida Farm Bureau Federation.

Mr. George Wilson, director, American Farm Bureau Federation, for the western region.

Mr. Don Parel, associate director, Washington office, American Farm Bureau Federation.

Mr. Hugh F. Hall, assistant director, Washington office, American Farm Bureau Federation.

Mr. John Todd of the Cotton Council.

Mr. Dana Bennett, consultant of the Citizens Committee for Reorganization of the Executive Branch of the Government.

That is the committee, of course, Mr. Chairman, which is following with interest and with strong support the so-called Hoover plan, and is supporting it.

Mr. Chairman, I am advised that you have received telegrams from various farm organizations that approve of our resolution, and I will not offer copies of these telegrams which are addressed to you for the record, but will announce for the record that the following organizations have advised me that they approve the adoption of Senate Resolution 263:

California Farm Bureau Federation, Ray B. Wiser, president.

Georgia Farm Bureau Federation, H. L. Wingate, president.

Nevada State Farm Bureau, Florence Bovett, secretary.

Washington State Farm Bureau, Ralph T. Gillespie, president.

Texas Farm Bureau, J. Walter Hammond, president.

New Hampshire Farm Bureau Federation, George M. Putnam, president.

Wisconsin Farm Bureau, Curtis Hatch, president.

Massachusetts Farm Bureau, Carelton I. Pickett, executive secretary.

Mississippi Farm Bureau, John W. Taylor, acting president.

I have, however, several wires which do not indicate that they are also addressed to the committee, and for that reason I offer them for the record.

(The telegrams referred to follow:)

ST. PAUL, MINN., *April 28, 1950.*

Hon. S. L. HOLLAND,
United States Senate, Washington, D. C.:

We support resolution for rejection of Reorganization Plan 4 (Agriculture) not opposing Hoover Commission report on agriculture as such. We oppose a plan which if adopted would make impossible to set the fundamental reorganization of the Department of Agriculture that is needed.

MINNESOTA FARM BUREAU FEDERATION,
J. S. JONES, *Executive Secretary.*

LINCOLN, NEBR., *May 1, 1950.*

Senator S. L. HOLLAND,
Senate Office Building, Washington, D. C.

Reorganization Plan 4, Department of Agriculture, not in long-time interest of real reorganization. Urge defeat this proposal.

CHARLES MARSHALL,
President, Nebraska Farm Bureau Federation.

FARGO, N. DAK., *May 1, 1950.*

Senator S. L. HOLLAND,
Senate Chamber, Washington, D. C.:

North Dakota Farm Bureau solidly behind your rejection Reorganization Plan 4, USDA.

P. J. DONNELLY,
President, North Dakota Farm Bureau.

LANSING, MICH., *May 28, 1950.*

Hon. SPESSARD L. HOLLAND,
Senate Office Building, Washington, D. C.:

Michigan Farm Bureau strongly supports resolution for rejection of Reorganization Plan No. 4 introduced by you and your colleagues. Unanimous action of this effect taken by farm bureau board of directors this week. Urge Senate adoption your resolution to prevent defeat of spirit and purpose of section 2 (A) Reorganization Act 1949.

C. L. BRODY,
Secretary, Michigan Farm Bureau.

BATON ROUGE, LA., *May 1, 1950.*

Senator S. L. HOLLAND,
Washington, D. C.:

Re Organization Plan 4 fails to provide for adequately carrying our recommendations of Hoover Commission. We think it should be sent back to the President for revisions in line with the Hoover report.

MALCOLM DOUGHERTY,
President, Louisiana Farm Bureau Federation.

Senator HOLLAND. These telegrams are from the following organizations:

Minnesota Farm Bureau, by J. S. Jones, executive secretary.
Nebraska Farm Bureau, Charles Marshall, president.
North Dakota Farm Bureau, P. J. Donnelly, president.
Michigan Farm Bureau, C. L. Brody, secretary.
Louisiana Farm Bureau, Malcolm Dougherty, president.

Mr. Chairman, the committee members who are here will recall the legislative history in connection with the passage of the Reorganization Act of 1949. This committee itself considered the legislation on this

subject, and reported to the Senate a bill to provide for the reorganization of the executive departments of the Government. The bill passed the Senate May 16, 1949, the conference report was adopted June 16, 1949, and it was approved by the President June 20, 1949.

You will recall that the House version of the Reorganization Act of 1949 provided, and I quote, from page 11, Committee on Expenditures in the Executive Departments, House of Representatives, Report No. 23, on H. R. 2361, section 6:

> This section provides that the provisions of the reorganization plan shall take effect upon the expiration of the first period of 60 calendar days of continuous session of Congress following the date on which the plan is submitted to Congress, but this taking effect is to occur only if between the date of transmittal and the expiration of the 60-day period there has not been passed by the two Houses a concurrent resolution stating in substance that the Congress does not favor the reorganization plan.

In other words, Mr. Chairman, the House bill on reorganization of the executive departments included a section which would have required the passage within the 60-day period of a resolution through both Houses of Congress.

This committee, the Senate committee did not accept the House language on this particular point, but amended the bill to provide that a simple resolution of disapproval either by the House or the Senate would be sufficient to reject and disapprove any reorganization plan submitted by the President.

Mr. Chairman, to further point out the intent of Congress on this point, I quote from the report of this committee No. 232 on S. 526, of the Eighty-first Congress, first session, page 15, last paragraph. I may say that the preceding paragraphs of the report which of course is available to the committee point out the fact that numerous exemptions have been offered, that it was quite apparent that if the writing of those exemptions into the law was attempted in any general way that the whole purpose of the act would be badly affected, and even perhaps emasculated, and that therefore this committee felt that there needed be a departure from the idea of writing individual specific exemptions into the act, and instead an allowance by the act of Congress, each House of Congress, to have the right to refuse to agree to approve any program which flew in the face of the majority of its constitutional membership by including some agency which such a majority of that House felt should have been exempted from the effect of any proposed reorganization. So I quote from this committee's report:

> By reserving to either House the power to disapprove Congress retains in itself the power to determine whether reorganization plans submitted to Congress by the President shall become law. The power of disapproval reserved to each House by the bill does not delegate to either House the right to make revisions in the plans, but it will enable each House to prevent any such plan of which it disapproves from becoming a law. The power thus reserved to each House seems essentially the same as that possessed by each House in the ordinary legislative process, in which no new law or change in existing law can be made if either House does not favor it.

Mr. Chairman, the conference committee substitute on this point which is now the law provides that a reorganization plan shall take effect upon the expiration of the 60-day period unless during such period either House passes a simple resolution by the affirmative vote of a majority of the authorized membership of that House, that is 49 Members of the Senate or 218 Members of the House, as

Congress is now constituted. In other words, Mr. Chairman, as finally passed, the conference provision in the act reserves the point of view of this committee, that is, that each House should have the veto power, because each House has the veto power in the approval or disapproval of any legislation, any change, in substantive law, but went further than this Senate committee had originally prescribed, by requiring a constitutional majority of the membership of either House to approve a resolution of disaffirmance, thus giving not only the initiative to the Executive, because neither House could make a change in the program proposed by the Executive, but also requiring that any veto power to be exerted over the will of the Executive in this important field must be exerted only by a constitutional majority of either House.

Well, now, that is going a long way, Mr. Chairman, in allowing the Executive complete initiative in the first place, and in the second place, requiring a very strong conviction in either House to veto any proposed reorganization plan, in that a constitutional majority is required for such veto.

It is crystal clear, therefore, that the Congress, when it enacted the Reorganization Act of 1949, intended to reserve to itself the right to check carefully each reorganization plan and to disapprove it if it so desired.

Mr. Chairman, it seems to me that that is the point upon which the sponsors of this proposed resolution would want to make their chief stand, that we feel that this particular reorganization plan does not communicate to the Congress the essentials of what will be eventually the reorganization program for the reorganization of the important executive department affected here, the Department of Agriculture, but instead has only a general framework and would propose to give blanket authority to the Secretary of Agriculture to reorganize his department subject to very few limitations.

Of course, legislation would be required in some instances, but in general it would give blanket authority for a reorganization whose details are not available now either to the Senate or to the House of Representatives. It would seem to us that this plan of reorganization, therefore, bypasses and by a circuitous route evades the exact purpose which was so clearly defined by the Senate in the passage of the bill last year, under which this reorganization plan is proposed, because its details are so carefully withheld. If there be any details yet available, and we think that since those details have to be worked out at some time, that the appropriate time for the submission of a reorganization plan is after they have been worked out, and that the reorganization plan should advise the Congress as to what those plans are and as to how the reorganization proposes to become effective with reference to the Department of Agriculture. It is only by following that plan, that is, by submitting a plan of reorganization which discloses the details of the proposed program of reorganization that the intentions of Congress can be given recognition, or can be pursued and followed, and we think they are not pursued and followed through this method adopted in this case affecting this very vital department of Government.

The CHAIRMAN. May I interrupt you?

Senator HOLLAND. That is all right.

The CHAIRMAN. To get down to the crux of the thing, you just feel that this plan is a plan to delegate power to the Secretary of Agriculture to do the reorganization job, that the Congress would lose control over and authority to pass on it, if this blanket authority is given. In other words, the Congress would not be permitted to inspect the plan and analyze it, and appraise it on its merits, but we simply delegate all power by this plan to the Secretary of Agriculture, and therefore the Secretary would reorganize as he might choose without the Congress having any further control over it, or power to restrain, if they did not agree with the plan.

Senator HOLLAND. The chairman has stated the point precisely, and to elaborate on it a little, I would simply like to introduce at this time for the record, unless it has already been placed in the record, the copy of the letter to the chairman of this committee, Hon. John L. McClellan, dated July 8, 1949, signed by Hon. Charles F. Brannan, Secretary of Agriculture, commenting upon the proposals of the Hoover Commission, and I ask that that letter be made a part of the record at this time.

The CHAIRMAN. The letter will be made a part of the record.

(The letter referred to follows:)

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, July 8, 1949.

Hon. JOHN L. MCCLELLAN,
United States Senate, Washington 25, D. C.

DEAR SENATOR MCCLELLAN: In your letter of May 21, you requested a report from this Department relative to the application of proposals of the Commission on Reorganization of the Executive Branch of the Government.

The several reports of the Commission are of such scope and complexity that it seems to me advisable to attempt to establish practical limits for the subject matter to be covered by my response. Comprehensive treatment of all the reports, pertaining to other departments, and agencies and to the executive branch generally, will require a great volume of work to complete. While this Department will doubtless participate in this work, on a rather continuing basis, we are not yet prepared to comment upon aspects of reports dealing primarily with activities outside this Department.

We are giving attention to measures to improve the efficiency and effectiveness of our own organization and operations. The recommendations in the report on the Department of Agriculture have been consolidated by the Bureau of the Budget as the digest of your committee recognizes. It is assumed, therefore, that the consolidated recommendations furnish a satisfactory approach to a consideration of the problems before this Department and within the field of your inquiry.

I am in complete accord with the observation of the Commission that "the foundation of good departmental administration is that the Secretary shall have authority from the Congress to organize and control his organization, and that separate authorities to subordinates be eliminated."

The Commission recommended two Assistant Secretaries for the Department instead of the one position now established by law. I concur in this recommendation.

It is believed that our activities are of such scope and magnitude as to amply justify establishment of the new position. Such a recommendation has heretofore been presented to Congress but no action was taken. In my view, the Commission wisely refrained from indicating specific responsibilities for Assistant Secretaries, leaving the Secretary freedom to assign responsibilities in accordance with changing needs and compatible with peculiar capabilities of these officers.

Establishment of an additional position of Administrative Assistant Secretary, recommended by the Commission, meets with our approval. Such an officer would provide coordination of administrative matters in the several agencies of the Department and furnish leadership in the constant effort to bring about improvement in procedures, organization, and management techniques.

The specific grouping of agencies and functions proposed by the Commission represents one of numerous alternative schemes of organization. Study is being given to the Commission's proposals and also to several alternatives. Final decisions must depend not only upon analysis of various plans but must also take into consideration the adaptability of each to the character of the programs which the Department may be called upon by the Congress and the President to perform.

With respect to organization for conduct of research, the Commission wisely points out that certain management and operational research can most economically be performed by one or another of our program agencies. For example, research in forestry, soil conservation, and marketing need to be examined in detail, item by item, to arrive at the determination as to whether they can best be fitted into an agency charged with over-all responsibility for research or assigned to the agency responsible for the program in the field. Careful consideration is being given to the most effective means of carrying on economic research in the Department.

In the fall of 1947, this Department presented to the Congress a report on a long-range agricultural program and therein recognized the desirability of consolidating the agricultural conservation and soil-conservation programs. These programs are closely related to the production and adjustment activities carried out directly with farmers. The latter, however, are also very closely related to marketing and price-support functions. Another point which arises in connection with the proposed establishment of an Agricultural Resources Conservation Service is whether a single agency can most efficiently handle all of the problems in the fields proposed to be included in it.

At present certain regulatory activities are performed in various agencies of the Department, whereas the Commission has proposed that all such work be consolidated in one regulatory service. Thus far, I am not persuaded that this would be desirable. Regulation of the importation of plants or animals, for example, bear little similarity to regulation of commodity markets, the shipment of perishables or the conduct of livestock yards and we believe it is sound to have the latter functions performed by the Bureau of Entomology and Plant Quarantine, the Bureau of Animal Industry, the Commodity Exchange Authority, or other subject-matter agencies having general cognizance of the appropriate field of activities, rather than duplicate personnel in a specific organization concerned only with regulatory responsibilities.

The cooperative Extension Service, which is an educational agency jointly sponsored by the Department and the land-grant colleges of several States, presently exists as a separate entity in the Department and we are in accord with the Commission's recommendation that it should so stand.

Agricultural credit services are rendered by the Farm Credit Administration and by the Farmers Home Administration. The former offers credit on a cooperative basis through farmer-owned institutions, whereas the latter makes direct loans for the purchase of farms or for rehabilitation to borrowers who have no other source of credit. Such loans have long been considered to require close supervision. We believe that this division is sound and that no savings would result from arbitrarily combining the two.

A most important consideration in the organization of the Department is deciding upon the means of carrying out Department programs at the county level and conducting farmer-Department relationships in communities and on farms. The Department's experience in this work in the past 15 years strongly supports the view that utilization of committees of farmers is indispensible to the successful operation of farm programs. Certain functions, of which the determination of marketing quotas and acreage allotments are examples, could scarcely have been carried out except for the aid and participation of farmers chosen by their neighbors for that purpose. We, therefore, disagree with that portion of the Commission's recommendations which would preclude committees of farmers from serving in any capacity other than advisory. The Commission recommended that not more than $700,000 a year be expended for farmer advisory committees. Such a limitation would permit the service of committeemen on an average of not more than 3 or 4 days per year and farmers would thus be deprived of adequate voice in the operation of the programs which so vitally affect them. We are giving most careful study to this phase of our problem.

We agree in principle with the Commission's recommendation that "New Federal agricultural research stations should be established only where existing joint Federal-State facilities cannot be developed to fill the need."

The question of utilization of conservation payments needs to be considered in connection with the whole conservation program in order to obtain maximum

effectiveness. I have elsewhere presented to the Congress my recommendations for changes in the law to improve our programs. This comment may be related also to commodity adjustment programs.

The recommendation that inspection costs on farm products be paid by the Government when imposed for the benefit of the general public appears to us as sound in principle. The Congress has recently expressed itself in connection with policy on meat-inspection costs. With respect to some inspection services, however, it is not always easy to identify the beneficiary, or to establish the degree to which commercial interests and the general public share in the benefits of inspection.

The Commission has recommended the repeal of that law which provides that amounts equal to 30 percent of the customs receipts should be made available for designated agricultural purposes. This law, which has been in effect since August 24, 1935, has proved extremely useful as a means for stabilizing the agriculture economy. The Agricultural Act of 1948, provides for the use of these funds on a continuing basis as the primary source of support for perishable commodities. In our opinion, its repeal would not be in the public interest.

The proposal that the Department of Agriculture be required to report to the President and the Congress on the use and timeliness of all reclamation projects is receiving consideration by appropriate agencies within the executive branch. Also under study is the proposed transfer of food activities of the Food and Drug Administration to the Department of Agriculture. Matters pertaining to the public domain constitute another question similarly being examined.

I should like to call attention to the fact that $35,000,000 of the $44,000,000 annual savings referred to in the Commission's report would result from the proposed discontinuance of certain lending activities of the Farmers Home Administration. Such a saving would not result from organizational changes suggested but from eliminating an integral part of the Department's credit services. The Farmers Home Administration records of accomplishment and repayment clearly reflect the economic and social values, and the low costs of the program of this agency. On the whole, the budget reductions which one might anticipate by a superficial reading of the Commission's report are based on assumptions which are open to question when examined carefully, item by item.

I would be glad to communicate with you further when I have our studies of the Department's organization more complete. Thank you for inviting me to comment on the recommendations of the Commission.

Sincerely yours,

CHARLES F. BRANNAN, *Secretary.*

The CHAIRMAN. Before you conclude, I guess you have in mind to point out this?

Senator HOLLAND. I am not at all near completion. I wanted to introduce that at this time to show this point, that that letter shows the only two proposals specifically agreed to in the letter and included proposals included in the Hoover Commission recommendation, of which two members of the Commission are here today, one of whom is chairman of this committee and the other, formerly chairman of the committee, are incorporated in this reorganization plan, and they are the only specific proposals that the sponsors of this measure can see incorporated in this plan, whereas all of the question of doubt and the discussion of differences of opinion as to what should be done beyond that were stated in that letter of July 8, 1949, some nearly 10 months ago, is still present apparently, or if there has been any progress made from that date, none is disclosed in the Reorganization Plan No. 4, upon which this hearing is now held, those two points being, and I quote from the letter:

> The Commission recommended two Assistant Secretaries for the Department, instead of the one position now established by law.

I concur in this recommendation and the proposed reorganization plan includes that provision. I will quote later:

> Establishment of an additional position of Administrative Assistant Secretary, recommended by the Commission, meets with our approval.

That additional post is also included in this proposed plan of reorganization.

The rest of the letter will speak for itself, and it shows that the Secretary was very doubtful at that time about many of the provisions which he mentioned in the recommendations of the Hoover Commission. It may well be that that doubt is valid, and that there is reason for those doubts. We, the sponsors of this bill, do not attempt to prejudge that question. The question is as to whether those specific recommendations, or any of the specific recommendations, should be followed.

We do feel, however, that the clear intent of the Congress in requiring that the plan of reorganization shall be submitted to the Congress prior to its taking effect and a 60-day period of insulation allowed before it becomes effective so that either the House or the Senate can through the method provided through the laws to disapprove, veto, disaffirm the proposal, is completely bypassed by this reorganization plan, so-called, and we feel that we should call attention to the fact that the only two specific items included in there which are mentioned as approved by the Secretary in his letter of July 8 of last year are in this proposed plan, and that all of the doubt then prevailing insofar as this committee can know, or insofar as the Congress is advised, still exists, and speaking now only for myself, and not for the other sponsors I want to say that it seems to me that this is one of the most vital reorganizations that is proposed. It touches directly the lives of every farming person and of many other persons throughout the Nation.

Many of the nonincorporated activities of the Department of Agriculture, such as the Agricultural Extension Service, and the PMA, so-called, and the Farmers Home Administration, and various other incorporated agencies of the Department, literally touch and affect the daily lives and operations of millions of our people. It would seem to me that this is one proposed reorganization which almost above any other should be brought specifically to the attention of the Congress, not only so that the intent of Congress may be served as included in its legislation passed on the subject, but so that the Congress itself may carry out its appropriate constitutional duties and not delegate them to somebody else to pass upon very vital questions of reorganization which do vitally affect the lives of all of the agricultural people of the Nation, and many, many other people besides.

Looking at the Reorganization Plan No. 4, I simply call attention without debating it to the fact that the various sections are as follows:

Section 1 transfers to the Secretary himself, except as to the functions of the corporations in the Department, all of the functions of all other offices of the Department of Agriculture and all functions of all agencies and employees of such Departments, giving to the Secretary the centralized authority to act throughout his Department by his sole order and perhaps that is a wise thing to include, and perhaps it should be included in the final form of the plan of reorganization which will give the details.

I am inclined to think that it should at this time, but the fact is that to give that power as an incident to the working out of the reorganization itself, and without seeing where that power is going to carry us, in the way of proposed details of a reorganization, we think is untimely and we call attention to that point at this time.

Section 2, with reference to the performance of the functions of the Secretary, provides that the Secretary may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer or any agency or employee of the Department of any of his functions, his centralized functions as set up under section 1, including not only functions transferred to him by this plan but functions which he now has the right already to perform, giving him the right to delegate.

Section 3 provides for the appointment of the two additional Assistant Secretaries, by and with the advice and consent of the Senate, and section 4 for the appointment of an administrative assistant secretary to which I have already called attention in my earlier remarks.

Section 5 with reference to incidental transfers provides that the Secretary may from time to time effect such transfers within the Department of any of the records, property, personnel, and unexpended balances available or to be made available of appropriations, allocations and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

In other words, it should be very clear from reading that that unused appropriations for one agency may be transferred for use by another, and that in effect appropriations for the agencies of the Department, not including the incorporated agencies, become a blanket appropriation.

Now, Mr. Chairman, I shall not weary this committee by reading for the record the purpose of the act passed last year, the act under which this reorganization is proposed, the Reorganization Act of 1949 (Public Law 109, 81st Cong., 1st sess.), but I ask at this time that the section giving the purposes, what was intended to be accomplished by the promotion of greater efficiency and greater economy and simplicity in government be quoted in the record at this time, the same being section 2 of the act.

The CHAIRMAN. Section 2 may be included in the record.

(The section referred to follows:)

NEED FOR REORGANIZATIONS

SEC. 2. (a) The President shall examine and from time to time reexamine the organization of all agencies of the Government and shall determine what changes therein are necessary to accomplish the following purposes:

(1) to promote the better execution of the laws, the more effective management of the executive branch of the Government and of its agencies and functions, and the expeditious administration of the public business;

(2) to reduce expenditures and promote economy, to the fullest extent consistent with the efficient operation of the Government;

(3) to increase the efficiency of the operations of the Government to the fullest extent practicable;

(4) to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;

(5) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the Government; and

(6) to eliminate overlapping and duplication of effort.

(b) The Congress declares that the public interest demands the carrying out of the purposes specified in subsection (a) and that such purposes may be accomplished in great measure by proceeding under the provisions of this Act, and can be accomplished more speedily thereby than by the enactment of specific legislation.

Senator HOLLAND. It is quite apparent to us in measuring this plan, plan No. 4, against those provisions of the act that the President has not complied with the intent of the act, that someone eventually, and here it would be of course the Secretary, in order to make any reorganization effective, that would carry out the objectives, that is the attainment of greater efficiency and greater economy, will have to carry out those purposes. It was the intent of Congress that those purposes be subserved.

We call attention to the fact that that work yet remains to be done, and that we think that this constitutes a writing of a blank check to enable a citizen and enable an agency and enable an agent, the Secretary of Agriculture, to do the thing which was intended to be done by the act, but it gives him the power to do it without his having to be responsible to either House of Congress, and would instead state that anything he may do whether wise or unwise, and of course he will try to do the wise thing, whether in accord with the intentions and convictions of the Senate or the House, that comes within the proper purview of the act passed last year, will become valid when he does it, and without there being any chance given to either House to affirm or disaffirm the act which we think is putting the cart before the Horse, bypassing the Congress, completely departing from the original intent and the expressed intent of the legislation, and besides it invites Congress to abdicate its powers, and to delegate to someone else the doing of the task which is of vital importance to the Nation, but which is a difficult task, and is going to necessarily affect many people in our Nation, and we feel that it is peculiarly advisable and wise that the Congress with reference to the reorganization that should be accomplished and will be accomplished under this act with reference to the Department of Agriculture shall be communicated in the reorganization plan to the Congress, and that it is only timely to communicate a reorganization plan after the details have been worked out and can be incorporated in the measure, which is transmitted to the Congress.

That test cannot be made with reference to the present proposed reorganization plan, because it is purely a shell, and the real meat of the reorganization will have to be supplied by action of the Secretary taken ff and after the plan becomes effective.

Now, Mr. Chairman, there is, of course, nothing in the plan which would make it mandatory that the Secretary follow either the purposes outlined in subsection (a) of section 2 of the Reorganization Act of 1949, which the Congress so clearly intended to be followed in the reorganization of the agencies of our Government, or any of the recommendations of the Hoover Commission or of the task force. The Secretary has already advised this committee by his letter of July 8, 1949, to the chairman of the committee, that he had at that time at least grave doubts in his mind as to the principal recommendations of the Hoover Commission and certainly the sponsors of the resolution know of no development since that time which would indicate any different attitude on the part of the Secretary toward the vital program embraced and incorporated in the report of the Hoover Commission.

The only thing we know about the possible attitude of the Secretary at this time is incorporated in his letter of July of last year showing

that at that time he had grave doubts about all of the major provisions of the recommendations of the Hoover Commission.

In particular, I see nothing in this plan that indicates that any of the long labors of many months of the task force appointed by the Hoover Commission or of that part of the recommendations of that task force which was incorporated, and it was a very large part, incorporated in the recommendations of the Hoover Commission itself, will be included in the ultimate reorganization, if the Congress permits it to become effective before it knows whether any of those items are or are not included within the plan.

Of course, I am omitting now the very minor portions of the plan which are included in the plan of reorganization, including the matters which I mentioned a while ago and also, of course, this section 1 which gives general delegation of all powers in the Department anywhere now except in the corporations to the Secretary.

Mr. Chairman, I am most anxious, and so is every other sponsor of this resolution, to perfect the reorganization of the executive branch of the Government. In most instances, I personally wish to follow the lines recommended by the Hoover Commission reports, as I am thoroughly convinced that in the interest of sound government in our Nation and economical government in our Nation, we greatly need to simplify our executive departments and also to economize in the performance of the duties of those departments, in the operation of many of our governmental agencies.

I will not attempt to discuss in detail the Hoover Commission recommendations on the reorganization of the Department of Agriculture. Later witnesses will be available to point out the many differences, and almost the complete differences between this plan and the Commission's recommendations.

Mr. Chairman, I strongly oppose plan No. 4, and urge that this committee report Senate Resolution 263 to the Senate. We simply do not have before us at this time any detailed reorganization of the Department of Agriculture in accordance with the intent of the Congress, when it enacted the Reorganization Act of 1949, and I think we would allow the purposes of the act, as shown so clearly in the language, to be defeated if we permitted this blanket reorganization to become effective.

Mr. Chairman, I want to comment briefly on three other points and I do so with complete kindness toward the Department of Agriculture, the Secretary, and all of the key employees in that Department, because I have great respect for each and all of them.

The first point I want to make is that in my humble judgment, based not only on a good many years of close contact and observation before I came here, but based on my service on the Senate Committee on Agriculture, the passage of this act would mark our passing on to the Secretary and his key men the performance of the task in a field in which it seems to me their greatest difficulty and their greatest deficiency exists. No one questions their devotion to the cause of agriculture and no one questions their ability in the very specialized field in which they serve, but it has seemed to me through the years, and especially in my service on the Committee on Agriculture that the Department has become a great overlapping, poorly organized agency which is wasteful of time and energy and of money, and that the ability of the Department itself to organize well has not been

manifested and that to the contrary, it is a field in which they are least capable.

I do not intend to go into specific points on that, unless it becomes necessary, but I do have specific observations to make if anyone feels that they should be made, not at all pointing out any lack of devotion or lack of energy or lack of desire to serve, but in my humble judgment indicating a lack of organizational and executive ability, and yet here we would ask the Secretary of Agriculture and his keymen to perform this gravest task of the century in his field, affecting all of agriculture in this specialized field of organization, in which field the greatest lack of grasp of the subject has already been shown in the performance of the Department to date.

The second thing which I want to mention is this, that there are simply tremendous implications in this reorganization, so vast and so vastly affecting each Senator and each House Member and the people whom they serve that even if we were inclined to abdicate our responsibility, to delegate to somebody else the difficult and disagreeable task in some fields of lesser importance, because of the press of business, this is one field in which we could not conscionably take that position.

I call to the attention of the committee, for instance, the fact that the three great agencies which I mentioned a while ago, and which touch the lives of so many people, are not incorporated, that they are overlapping in many fields of their service, and that there will inescapably have to be reorganizations effective applicable to them, if any real plan of reorganization of the Department of Agriculture is attempted and effected.

I refer, of course, to the Agricultural Extension Service, to the Production and Marketing Administration, and to the Farmers Home Administration. They touch the lives of millions. There are overlappings in their performance without question. There is efficiency and economy that can be accomplished with reference to them. But I am simply calling attention to the fact at this time that since we know that there should be reorganization effort in those fields, we should insist on seeing what that effort will be, and since we know that any reorganization effort is necessarily going to bring upon some trouble or some loss of jobs, some loss of pariricular services to which they have become accustomed from a certain sort, that we have the right to see how this plan is going to affect them. I think it is our inescapable responsibility to see it, and not to take a weak position later when trouble comes, if it did come, "Well, we delegated to somebody else the power to do that, and we have no responsibility whatsoever for the results accomplished." I am one who does not want to see those great overlappings continue, and the minute that there is a sincere effort to cut them down, to make the organization sounder and more effective and more economical, there will be, of course, a stepping on toes in some directions, and I think that it is the inescapable duty of this Congress to see that that effort is started, and to see, then, in what direction it goes, and to have the right to give our approval or our disapproval before it becomes effective in the specific ways that are advanced.

In closing, Mr. Chairman, may I say that it seems to me that there is a great deal more involved here even than merely the need for greater efficiency and greater economy. I think that in these exceed-

ingly troublous times that the Congress will be expected by the people affected by vital legislation and that is what this reorganization is going to be, vital legislation, the Congress will be expected, I repeat, by its people to exercise its responsibility and to carry out its own duties and not to avoid them simply because it may be pleasant to let somebody else do a difficult and a disagreeable task.

I do not believe we can safely resign our duties at this time with reference to such a vital matter, and I speak now of the safety of the Nation, of the confidence of the people in the Congress, of the confidence and belief of our people that their congressional Representatives will do their full duty in connection with the passage on legislation affecting such a vital set-up as the Department of Agriculture.

Thank you, Mr. Chairman. May I put in the record at this time, a list of the members of the Agricultural Task Force, and a brief résumé of the long service rendered by them during 10 months in the making of a complete analysis of the functionings of the Department of Agriculture, and the development of a plan of reorganization which was included in their recommendations?

The CHAIRMAN. You may.

(The information referred to is as follows:)

LIST OF MEMBERS OF AGRICULTURAL TASK FORCE

The membership of the Agricultural Task Force Committee was as follows:

H. P. Rusk, chairman, dean and director, College of Agriculture, University of Illinois, Urbana, Ill.

Frank W. Peck, managing director, Farm Foundation, Chicago, Ill.

William Rhea Blake, executive vice president, National Cotton Council, Memphis, Tenn.

William H. Martin, dean and director, College of Agriculture, New Brunswick, N. J.

D. Howard Doane, chairman of the board, Doane Agricultural Service, St. Louis, Mo.

Chester C. Davis, president, Federal Reserve Bank, St. Louis, Mo.

John M. Gaus, professor of political science, Harvard University, Cambridge, Mass.

William A. Schoenfeld, dean and director, School of Agriculture, Oregon State College, Corvallis, Oreg.

This committee was appointed and began its work in January 1948 and did not complete its report until October of that year. During this 10-month period, the full committee was in session approximately 40 days. Subcommittees of the general committee set up to study specific problems, and individual committee members assigned to certain subjects worked a great deal of the time between regular committee sessions.

The work done by the committee members was reinforced and supplemented by a full-time staff that did the investigative and research work that was necessary to supply the committee with the information required.

Dozens of individuals having specialized knowledge in the field of agriculture and in the organization of the Department of Agriculture appeared before the committee when it was in session and submitted recommendations and advice. Individual members of the committee conferred privately with many other individuals in various parts of the country to obtain their views on the problem at hand.

The foregoing is cited to emphasize the fact that the recommendations of the task force were not arrived at hastily or in a casual manner. They represent the very best thinking that could be brought to bear on the problem of organizing the agricultural activities of the Federal Government over a period of 10 months of intensive work.

The CHAIRMAN. As I understand, there is no objection to the general transfer of functions to the Secretary as proposed in section 1 of the plan, particularly so far as it pertains to the administrative functions.

Senator HOLLAND. Certainly not, Mr. Chairman, although I think this is not the time and occasion for doing of that. I think after the reorganization is completed, rather than to give him even more sweeping authority in the making of the reorganization would be the time to accomplish that result.

The CHAIRMAN. I would say generally that section is in line with the general recommendations of the Hoover Commission to establish a line of authority, and a line of command from the head of the agency on down through all of his Department with respect to the authority, with respect to administrative function.

Senator HOLLAND. That clearly complies I think with part 3 of the Report No. 1 on General Management.

The CHAIRMAN. Yes, that is what I had reference to.

Subsection (b), there is no objection to that, so far as it goes. I mean the exemption is made there in subsection (b) as to what his authority shall be under this general transfer of powers, there is no objection to that. That is as far as it goes.

Your position is that it simply does not go far enough?

Senator HOLLAND. It does not go far enough, and it is not timely. I do not want to see a reorganizing in effect which simply does a few things, such as included in that section 1 and sections 3 and 4, and leaves all of the reorganization objectives, all of the large objectives unaccomplished, and leaves it questionable as to whether they will be accomplished, and we say it is questionable because we do know that the Secretary in July of last year was certainly not in accord with the important objectives and recommendations of the Hoover Commission.

The CHAIRMAN. This plan, in effect, does three things that the Hoover Commission recommended. It sets up the two Assistant Secretaries, it establishes those positions, it sets up the Administrative Assistant Secretary. Those are two of the things that the Hoover Commission recommended. The third thing it does is to transfer the executive powers to the Secretary, that is, to give him the general management of the whole agency, the line of authority and command. It does those three things that the Hoover Commission recommended, all of which certainly cannot be said to be in the line of greater economy, and they certainly give greater power to the Department. They give no guaranty at all of the carrying out of any substantial reorganization functions.

The point I want to make is that, it is from your position—I am trying to interpret a portion of your testimony—that beyond those three things, there is no plan of reorganization here, but simply a delegation of power to the Secretary to do such reorganizing in the Department as he may choose. He would not be bound by the Hoover Commission recommendations, whether they are good or bad, and the plan has not followed them except as I have pointed out. In other words, there is no reorganization beyond the establishment of these positions and the delegation of authority—in the plan itself, I mean.

Senator HOLLAND. That is substantially correct, Mr. Chairman, and we think that not only is that correct, but that the existence of that fact shows a large departure from the intent of Congress in the passage of the legislation last year.

The CHAIRMAN. In other words, all Congress has before it is to approve just what this says.

Senator HOLLAND. That is right.

The CHAIRMAN. Once it approves, it loses the power and control over approving or disapproving whatever else may be done under the powers herein delegated.

Senator HOLLAND. It would leave Congress in the position of having decided that those three things are the important things, requiring reorganization or new personnel in the Department of Agriculture, and the other things were mere details which we could safely pass on to the Secretary to do without our having any concern about whether they were done or how they were done.

Mr. Chairman, I think those are among the minor things in which reorganization is required, and that neither efficiency, economy or simplification is accomplished by the doing of those things.

The CHAIRMAN. I was just trying to get it in my own language, the position that you take with reference to the plan. Are there any questions.

Senator Aiken, the committee would be glad to have you ask any questions if you desire.

Senator AIKEN. I appreciate it very much. Senator Holland reappointed me to this committee. This would certainly be the one to be a member on.

The CHAIRMAN. We acquiesced in that. No one objected.

Senator AIKEN. I appreciated that, too.

Simply from force of habit, Mr. Holland, I come in here occasionally and sit with the committee under our distinguished chairman, who I was very happy to relinquish the chairmanship to when it became apparent that it was going to be relinquished to someone.

The CHAIRMAN. We regretted to lose Senator Aiken off this committee when the chairmanship, as he said, became apparent it was going to be changed, because I served with him for 2 years at a time when we had some very difficult measures before us, and some unpleasant work part of the time. I do not think anyone could tell which one was Republican and which one was a Democrat from our labors together.

Senator AIKEN. I think it is all right to say that this is one committee where we were in effect cochairmen and that there was no distinction as to party membership at all, and I know that that is the way this committee is being conducted at the present time, one of the best ordered committees of the entire Senate.

The CHAIRMAN. Thank you.

Thank you very much, Senator Holland.

Senator HOLLAND. Thank you.

The CHAIRMAN. Senator Thye.

STATEMENT OF HON. EDWARD J. THYE, A UNITED STATES SENATOR FROM THE STATE OF MINNESOTA

Senator THYE. Mr. Chairman and members of the committee, Senator Holland has done such an excellent and able job in presenting the views of those of us who joined as cosponsors on this resolution that there is very little left for me to comment about or to add to. I joined as a cosponsor of Senate Resolution 263, the adoption of

which would result in disapproval of the President's Reorganization Plan No. 4 of 1950 providing for reorganizations in the Department of Agriculture and I wish to state very briefly my reasons for joining Senator Holland, Senator Johnston, and Senator Schoeppel in introducing this legislation.

In the first place, as a practical matter under the committee's procedure, no hearing would have been conducted in the absence of such a disapproving resolution. Such hearings, it seems to me, are highly desirable in the case of proposed changes in an important department, (1) to give the Secretary of Agriculture the opportunity to blueprint for the information of Congress the changes that he proposes to make and (2) to permit an analysis of those proposals from the point of view of their conformity to the established policies of Congress, and to the recommendations of the Commission on Organization of the Executive Branch.

I am hopeful that the hearings will enable us to determine more accurately whether the authority requested is needed and desirable at this time. The fact that we are presently engaged in a widespread examination of the entire agricultural situation which may be focused into a specific study by Congress of what the long-range program should be makes it especially imperative that we know the trends and purpose of the contemplated reorganization within the Department which would be undertaken if Reorganization Plan No. 4 now becomes effective.

It would appear that the President proposes to concentrate in the Secretary of Agriculture all functions of all other officers and all functions of all agencies with a few exceptions in the case of corporations, such as the Commodity Credit Corporation. Is such concentration of power necessary or desirable for an effective administration of the activities of the Department? That is one question. What will be the effect of the blanket authority to be vested in the Secretary to require performance on the part of the officials and the employees of such functions as the Cooperative Extension Service, the Agricultural Credit Agency, the county and State committees, the rural electrification service, and many others?

Inasmuch as the President's Reorganization Plan No. 4 does not embrace the major recommendations of the Hoover Commission for the elimination of duplication and overlapping of agencies of the Government, which should be grouped in the Department of Agriculture, further questions arise in connection with the proposal. What steps would be taken if the plan were adopted to put the Commission's recommendations into effect to bring about the integration of agencies and bureaus in the Department, to improve the field organizations, to eliminate duplications of services?

Yes; there are many, many thoughts that come up as we look upon the proposal as set forth in the Presidential message, and as we examine the letter that the Secretary of Agriculture, Mr. Brannan, addressed to the chairman of this committee, Senator McClellan, on July 8, 1949. I have attempted to acquaint myself with the views set forth by the Hoover Commission's task force, as they were making the study, and also the final recommendation of the Commission to Congress. As I have given thought and study to all of these questions, it disturbs me considerably that I have felt compelled to join as a cosponsor of this resolution. This action will be misunderstood by many who will feel

that we, as Members of Congress, are opposing the opportunity of reorganizing the Federal agencies to bring about efficiency and economy in government. The first thought that the public will have, when they see this resolution, is that a group of Senators is opposing the reorganization plan. They will rightly say, "It is a petty proposition, they are interested in saving some pet performance or agency within the Department of Agriculture." Therefore, it is unfortunate that the Secretary of Agriculture and the President at the time that they offered this reorganization plan, and at the time that the President submitted it to Congress, March 13, that there had not been specifically stated just what it was proposed to do. It is proposed to consolidate some of the functions, such as soil conservation, PMA, and the Extension Service, and to bring about a unity so that the producer group—the 188,000 farmers in Minnesota, for example—would know specifically where to go and find the Soil Conservation office, and where to go to find the PMA office, and the Extension office.

I could take you out into my State and show you counties where we have three specific offices, all serving agriculture, all within one county, and it is not uncommon to see three automobiles going down the highway, one representing the Soil Conservation, one representing the PMA, and the third one representing the Extension Service. If the President had specifically in his reorganization plan made some definite recommendation so that we would have known what they were proposing in the reorganization plan, I am sure that none of us would have found it necessary to have sponsored this resolution.

That is the unhappy position that I find myself in now because I have the keenest sympathy for the administrators of the huge functions of the Department of Agriculture, because they reach into every section of the United States, and they affect the well-being, you might say, of all of our rural people to a great extent. There is almost no activity in our rural people's lives that the Department of Agriculture has not some particular connection with.

We have the REA, which has so much to do with the well-being of the rural home and the rural farmstead, and I could go on and name many other agencies of the Federal Government that affect the farm or the farm home and the life of the rural population.

As I look upon this reorganization plan as submitted to Congress by the President I note on the back page of the printed message as to Plan No. 4, in section 5, the following:

> *Incidental transfer.*—The Secretary of Agriculture may from time to time effect such transfers within the Department of Agriculture of any of the records, property, personnel, unexpended balances available or to be made available of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

The CHAIRMAN. Do you think there could be a diversion of funds there? Suppose the Congress appropriates money for one particular function; do you think that under that he could transfer those funds to some other function?

Senator THYE. It is a very broad provision. It seems to infer that that is what could be done, because when you refer to transfer of all available balance, those to be made available, of appropriations, allocations, and other funds of such department as the Secretary may deem necessary in order to carry out the provisions of the reorganization

plan, it seems to leave the field wide open to favor certain agencies against others, contrary to the intent of Congress. It does leave me very skeptical and very much concerned as to whether it would be wise to delegate that amount of authority to any man.

I think it would be placing the Secretary in a position where pressure could be brought upon him unduly. In other words, he would be carrying an additional burden and what the task forces of the Hoover Commission was attempting to do was to relieve the Secretary of the huge responsibilities that he so often finds himself laboring under, that he is not able to function freely to an extent where he could conceivably develop some very excellent programs for the agricultural well-being of the Nation.

The CHAIRMAN. What I am trying to determine, Senator, from your interpretation of this broad power, Would it not be tantamount to just simply saying that any appropriation that Congress makes for the Department of Agriculture is simply a blank check that he might reallocate to other purposes than those for which Congress specified it should be spent, because this becomes permanent law and it says from time to time, which is dealing with the future, that he might divert the funds to such purposes as he desired? The question arises in my mind under such broad power as that, if it is not tantamount to saying whenever the Congress makes an appropriation up to the limit of that appropriation, regardless of what Congress specified, certain amounts should be expended for, certain services, that it should service, we are by this plan, if it became law, simply delegating or constituting the Secretary of Agriculture with the power and the source of authority, if he desires, to completely change in one instance or another, or in many instances, the expressed will of Congress, after it makes an appropriation.

Senator THYE. Yes, Mr. Chairman, section 5 definitely seems to me to be not only a blank check, you might say, of the appropriations that Congress makes, but it gives the Secretary a blanket authority to do as he will whether he furthers one particular function of the Department of Agriculture at the expense of another function. In fact, what I have been so disturbed over, is the fact that the entire reorganization proposed is on the basis of blank-check authority. In other words, the Secretary has not specifically stated how he proposes to reorganize any of these departments except in his letter to you, Mr. Chairman. He did state that the Extension Service, which is an educational agency, jointly sponsored by the Department and the land-grant colleges of the several States, expressly exists as a separate entity in the Department, and we are in accord with the Commission's recommendation that it should so stand.

That is practically the only specific reference that they have to any of the agencies within the Department of Agriculture. The rest of it is either differing with the Hoover Commission's recommendation, or not referring to it specifically. The Department seems to say: "Give us the over-all blanket authority, and when we have it, we may effect some change from time to time as we deem necessary." We have only found two specific proposals, one relating to the extension and the other requesting additional Assistant Secretaries. Those are the only specific ones, and the rest is left entirely for us to imagine. Congress might find itself compelled to introduce legislation specifically to correct some particular reorganization that the Secretary might have

instituted, and if Congress were faced with doing that, you would again find misunderstanding on the part of the public.

One important reason why I joined as a cosponsor of this resolution was to give the Secretary of Agriculture an opportunity to come before this committee and blueprint what he has in mind. If he can blueprint it in a manner that is acceptable to you, Mr. Chairman, and your committee, and acceptable to those of us who sponsored this resolution, I am sure that we would have no difficulty in disposing of the resolution to the satisfaction of everybody. The Secretary now has an opportunity of revealing what he has in mind, rather than asking Congress to give him a broad blanket authority.

I thank you, Mr. Chairman, for the privilege of appearing before you, and your splendid committee. I sat right up there with you, sir, the first 2 years I served in Congress as a member of the Committee on Expenditures in the Executive Departments. I know that you will give keen consideration and study to the resolution, and also to the reorganization plan. I thank you.

The CHAIRMAN. Thank you, Senator Thye. Any questions?

You spoke of the position it puts Members of Congress in to come up here to oppose one of these plans or one or more of them. I recall very well that when we had up the reorganization bill, and after the pressure was on us in a way to pass a bill without any exemptions and also to require both Houses to disapprove, some of us felt that that was just granting entirely too much power, and we insisted on the one House, the right of one House to veto and had we not done so, if that had not prevailed ultimately, it would be rather difficult to disapprove any plan.

I can appreciate your position. Some of us were criticized at the time, said we did not really want reorganization, wanted to obstruct it. That is not true. I think every member of this committee, I would say every Member of Congress, realizes the need for reorganization, but in reorganization there can be disorganization, if the reorganization is not properly done.

I agree with Senator Holland that the Congress has an inescapable duty in this matter. If we delegate all of the power and then reorganization does not get results, ultimately we are going to be held to account for it.

Thank you very much.

Senator AIKEN. I would like to ask Senator Holland a question, that is, whether it is your belief, under the authority granted in sections 2, 3, and 5, that it would be possible for the Secretary to transfer functions, personnel, unexpended balances, records, property, from the Extension Service to the PMA, for example?

Senator HOLLAND. I so understand it, Senator Aiken, Section 1 gives the Secretary the full power that is delegated under law to every agency within his Department or employee, except the corporations. Section 2 allows him to redelegate any of that great accumulation of power to any agency or employee within the Department. Section 5 permits the Secretary to transfer books, records, unexpended funds, and balances and the like from one to another.

Senator AIKEN. And personnel.

Senator HOLLAND. And personnel, too. Of course, it is limited by the words "in pursuance of the carrying out of the plan," but assuming that there would be that condition satisfied, he may certainly make

any transfer of personnel, unexpended balances, funds, books, records, that would be defensible as carrying out a reorganization.

Senator AIKEN. The ability to make such transfers is really part of this plan.

Senator HOLLAND. That is right. The only condition upon the point I was making is that it would have to be in pursuance of the carrying out of a plan of reorganization.

Senator AIKEN. Do you understand that he could transfer part of the functions of one agency to another? For instance, could he transfer the informational functions of the Extension Service to the PMA or any other agency?

Senator HOLLAND. Why, certainly, he might set up a new informational service that would cover all of the activities of the Department and have all of the individual powers of every other agency other than the corporate ones transferred to that particular agency.

Senator AIKEN. In other words, then, could he under this reorganization plan concentrate all informational services of the Department of Agriculture in a single agency?

Senator HOLLAND. Except as to the corporate entities that are within the Department.

Senator AIKEN. Thank you.

Senator HOLLAND. Mr. Chairman, if you will allow me to make one additional statement, I think that if the Secretary proposes to make any serious reorganization, and bearing in mind that any serious reorganization would be sure to step on some folks' toes, as Senator Thye has expressed it, with which I agree, that the most unkind thing we could do to him and to the program that he handles would be to approve this plan, because he is an administrator and should not be by any manner of means the legislator, but we propose by this, that is, we do not propose it, but it is proposed in the plan of reorganization that we delegate to him the responsibility of making law by making a series of reorganizations.

I think from the standpoint of the proper and efficient functioning of the Secretary and of his Department, and the maintenance of complete good will toward that Department from the greatest mass of people whom the Department serves, it would be highly undesirable to clothe him with this authority, that is, if it is intended that he shall do any serious reorganization. If it is intended that the reorganization plan includes all of the serious things that will ever be done, and that the rest will be simply minor delegation of details, perhaps, to different places than they are now, that point would not lie, but I raise the point because I am sincerely desirous of seeing a serious reorganization of the Department of Agriculture, and I think that the recommendations of the Hoover Commission show very deep conviction of the members of that Commission, and that the recommendations of the task force show the deep convictions of the members of the task force, that the Department of Agriculture has become a very great accumulation of swollen activities which have many overlappings between themselves and which do require absolutely serious reorganization.

I think we should shoulder our own responsibility in connection with seeing that such a serious reorganization is accomplished, and that we will have no assurance of it whatsoever if this plan be approved.

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Senator AIKEN. I think you have heard some demurring to the responsibility vested in the Secretary of Agriculture for fixing a level of price support between 60 and 90 percent, but in your opinion, would not the fixing of the level of a support for a specific commodity somewhere between 60 and 90 percent be a very minor responsibility as compared with the responsibility which would be vested in the Secretary by this plan?

Senator HOLLAND. Very minor. Anything that he does that is of a serious nature, and under this plan would touch vastly larger groups than the members of any one agricultural industry, or the producers of any one agricultural commodity.

The CHAIRMAN. Thank you very much.

The Chair will announce at this time that there are some five or six other witnesses here, and the Secretary of Agriculture cannot be present this morning. The Chair will announce now that when we recess at noon, we will recess until 2 o'clock this afternoon, because I would like to hear all of those who are present today, that probably have come for some distance to give their testimony, and we are not only doing that to accommodate you, but the committee, too, because we have a number of these plans, and in view of the time limit we have to take action. We have to move these hearings along and try to give everyone an opportunity to speak, so we will continue this afternoon.

Mr. Rusk, you may proceed. Identify yourself to the reporter.

STATEMENT OF H. P. RUSK, DEAN, ILLINOIS STATE COLLEGE OF AGRICULTURE, CHAIRMAN, HOOVER COMMISSION TASK FORCE ON AGRICULTURAL ACTIVITIES, URBANA, ILL.

Mr. RUSK. My name is H. P. Rusk. I am dean of the College of Agriculture at the University of Illinois, and a former member of the task force that worked under the direction of the Commission on Organization of the Executive Branch of the Government.

Mr. CHAIRMAN, we appreciate very much your invitation for us to appear before this committee and present our views on this important matter.

Three other members of the former task force are here with me, Mr. Rhea Blake of the National Cotton Council, Mr. Frank W. Peck, of the Farm Foundation, and Mr. William A. Schoenfeld, dean of the Oregon School of Agriculture.

I have communications from three other members of the committee saying they were sorry that they were unable to get here.

I think you should know that the first efforts of this task force were directed to a study to bring into proper perspective the major governmental programs and activities directly related to the broad field of agriculture. Thereafter, we proceeded to analyze these activities in the light of our expanding government services.

Over the years, the United States Department of Agriculture has enjoyed the confidence of a vast majority of our citizens, farmers and nonfarmers alike. Probably it has rated higher in the minds of more people than any other department of the executive branch of the Government.

Public confidence in the Department as a source of sound information on an ever-widening range of problems brought increased de-

mands for service from urban as well as rural people. It was inevitable that the increasing demands of our growing population would be reflected in added responsibilities of the Department. Many of these new responsibilities have been undertaken by more or less independent administrative units. The task force found that this type of growth has resulted in a loose confederation of autonomous bureaus and agencies with strong tendencies to develop independent, overlapping, and duplicating programs.

The task force soon found that a well-coordinated organization could not be secured by merely shuffling the existing units. Our first problem, then, was to determine the most adaptable and effective basis for reorganization. Strong arguments could be presented for an organization based on subject matter—economics, chemistry, entomology, bacteriology, plant and animal pathology, engineering, and so forth. Pressures were exerted by proponents of this scheme but the task force decided that economics, chemistry, and so forth, were the tools used to solve the problems of the Department and since the solution of many problems require the use of several of these tools, they did not constitute a sound basis for determining major administrative units. Similarly, the various programs and activities of the Department were considered as a basis for organization, but these appeared to be expressions of changing public policy and, therefore, not a sound basis for organization. Commodities might have been used, but that type of organization would result in as many "little departments of agriculture" as there are major commodity interests. From the beginning of our discussions function was considered as a possible basis of reorganization. The present organization of the Department is pretty much a hit-and-miss mixture of all of these types of organization.

How the problem was resolved is stated in the first paragraph on page 7 of the task force report. It reads:

> Recognizing that no single system or pattern can contain neatly all aspects of all activities and units, the committee sought some basic guide whereby it might relate the many activities and units in the National Government affecting agriculture. It then sought to outline a procedure whereby these activities could best be focused in a unified program in cooperation with State programs without obscuring and confusing the respective and joint responsibilities of the National Department and the State agencies. The guide found most helpful is function.

Plan No. 4 as submitted by the President authorizes more top-level assistance for the Secretary and transfers to him all functions for which the Department is responsible, except certain of those of hearing examiners and those of corporations of the Department of Agriculture and their personnel. Aside from these exceptions noted in section 1 (b) of plan No. 4, the Secretary is given carte blanche authority for reorganization of the Department. True, the President in his letter transmitting plan No. 4 to Congress refers to section 2 (a) of the Reorganization Act of 1949 as a basis for his action, but section 2 (a) of the Reorganization Act of 1949 is merely a declaration of the purposes of reorganization rather than a directive, guide or a plan for reorganization. The purposes stated do not differ greatly from those set forth in Public Law 162, Eightieth Congress, creating the Commission on Organization of the Executive Branch of the Government, and only with respect to such statement of purposes does section 2 (a) correspond to the recommendations of the Commission. The report of the Commission is much more than a statement of purpose

it submits an outline of a plan of reorganization to accomplish those purposes.

Reorganization Plan No. 4 recognizes the necessity of placing in the hands of the Secretary sufficient authority to accomplish reorganization. But as it stands it offers no directive in support of any efforts the Secretary may make toward adoption of the basic administrative grouping of functions recommended by the Commission.

The record of previous attempts during the years to secure a more effective and economical organization of this and other departments of the executive branch of the Government shows that the absence of specific directives places the Secretary in a very weak position with regard to vested interests in and outside of the Department.

A statement by the Honorable Herbert Hoover while Secretary of Commerce makes clear how important it is to provide for the Secretary strong support in dealing with these vested interests. The following paragraphs are quoted from testimony offered by him before a joint committee on reorganization of the administrative branch of the Government on January 22, 1924, more than a quarter of a century ago.

> I do not believe that any Government reorganization will ever take place that will meet with agreement among the executive heads of the Government. Cabinet heads necessarily take color from their subordinates, and subordinates are, from the nature of things, bound to be in opposition to serious changes. If there is to be reorganization it will have to be carried out by Congress and the President. The men who are the head of various bureaus and secondary functions of the Government believe honestly and earnestly in the purpose of their service and they are bound to object to any change which seems to them would decrease their activities, reduce their personnel, or require them to take a less important position in some other grouping. They naturally and properly feel that the service which they direct is the most important function of the entire Government and the minimizing it in any direction would be wrong.
>
> Some of them feel so strongly that they feel it right to engage in propaganda in opposition to change. The cumulation of such activities from many sources are likely to break down every attempt at reorganizations * * * some years of experience in the Government have led me to believe that if the overlap and waste in the Federal Government is to be eliminated it must be handed down from on high and not attempted as the results of agreements, for they can never be brought about.

Senator Clinton P. Anderson, who as former Secretary of Agriculture is familiar with the problems involved, had this to say in support of the plan proposed by the Commission:

> If we approach every proposed reorganization of the Department of Agriculture with the condition that no employee is to be separated from his task, that no responsibility is to be lessened, that no services are to be regrouped, then no progress will be made either toward increased efficiency or reduced costs. It is only when there is determination that simplification must and will be achieved regardless of who is involved or how many positions are abolished that there can be any effective result * * *
>
> Therefore, I suggest that we start by agreeing that reorganization is possible and should be undertaken. The plan proposed by the Hoover Commission may not be the only one that could be developed. It is, however, available and specific. It deals directly with conditions as they now exist. In the absence of a current and better proposal, it deserves a trial.

Adoption of the basic features of the Commission report is not seriously jeopardized by differences in the opinions of those honestly endeavoring to secure the most efficient and economical organization of our governmental procedures. The real danger comes from those who want to maintain status quo.

In order to strengthen the hands of the Secretary in dealing with these vested interests inside and outside of the Department and to assure that the real intent and purposes of the Congress are carried out it is necessary to furnish the Secretary specific guidance and direction.

We believe that the bare minimum in the way of needed guidance is a directive to reorganize the USDA along functional lines that will group related functions and activities into integrated administrative units, reduce overlap and duplication, promote economy, increase efficiency of operation, and provide through a reorganization of State and county committees an effective two-way process of policy making and program building so that the will of the people may, through democratic procedures, be assured of due consideration.

To accomplish this last purpose and to coordinate administrative procedures down to the grass roots, the task force and the Commission recommended: (1) Consolidation of field services where possible, (2) administration of action programs by departmental employees through offices based on the States as units, and (3) the establishment of State and county councils of elected farmers whose major responsibility would be to represent the farmers of their community rather than the action agencies.

We as former members of the agricultural task force believe that Reorganization Plan No. 4 should be rejected and that specific directives should be provided by the Congress to effectuate the basic principles and recommendations of the Commission.

I am advised that legislation is now being prepared to accomplish this objective and will be introduced at an early date.

The CHAIRMAN. Mr. Rusk, how many members were there of the task force?

Mr. RUSK. There were eight members of the task force.

The CHAIRMAN. Eight members.

Mr. RUSK. Mr. William Rhea Blake of the National Cotton Council; Mr. Chester C. Davis, vice president of the Federal Reserve Bank of St. Louis; Mr. D. Howard Doane, chairman of the board of Doane Agricultural Service; Mr. John M. Gaus, professor of government of Harvard University; Mr. William H. Martin, dean at Rutgers University; Mr. Frank W. Peck, director of the Farm Foundation in Chicago; Mr. William A. Schoenfeld, dean of agriculture, State of Oregon State College; and myself.

The CHAIRMAN. You state that, "We as former members of the agricultural task force believe that Reorganization Plan No. 4 should be rejected." Do you speak for all of those?

Mr. RUSK. I speak for the four who are here. I am quite certain that at least the three others would agree in that statement, but I cannot be positive.

The CHAIRMAN. I only wanted to clarify it, because it might imply here that all members of the task force disagree with the present plan or disapproved of the present plan that is before us.

Mr. RUSK. I did not intend to commit the men who are not here.

The CHAIRMAN. Just the four of them.

Mr. RUSK. The four who are here; I can say, however, that I have had telegrams, letters, or telephone calls from all of the other four. One man expressed his conviction he thinks we have finished our job. We have no obligation to press for adoption of our recommendations,

and that is his point of view. I think in many ways it is a logical point of view.

The other three, making seven in all, including the four here, feel that the Reorganization Plan No. 4 falls far short of what we should have in the way of a reorganization plan.

The CHAIRMAN. So then seven, we will say, out of eight, have indicated they are not pleased with the present plan.

Mr. RUSK. Not satisfied; yes.

The CHAIRMAN. Are there any questions?

Senator SCHOEPPEL. In your deliberations as a member of the task force, Dean Rusk, you of course had the benefit and experience of many, many men in all sections of the United States, who gave some consideration to this agricultural reorganization program from many years of experience; did you not?

Mr. RUSK. Yes, sir; we had a great many people from the Department of Agriculture before the committee. Some of them handed in written statements, and many, many more members of the Department and others from all over the country talked with subcommittees of our task force in their meetings which they held in different parts of the country, or with individuals on the task force; so we did, by and large, have the considered opinions of a great many people.

The CHAIRMAN. Thank you.

Senator Holland or Senator Thye, the committee will be glad to extend you the opportunity to ask any questions you desire.

Senator THYE. I have none, Mr. Chairman.

Senator HOLLAND. Mr. Chairman, I found the members of this committee exceedingly modest yesterday afternoon in conferring with them—modest as to their own service in this matter. I would like to ask Dean Rusk, if he would, to please state in the record at my request the period of time, the nature and the extent of the services rendered by the eight members of this task force.

Mr. RUSK. In the letter submitting our report, I made this statement. Including January 13 and 14, 1948, when the committee was organized, 11 meetings have been held ranging from 2 to 6 days in length; 8 were held in Washington, 2 in St. Louis, and 1 in Chicago. Almost without exception they were attended by the entire committee. In addition, subcommittees held meetings in several parts of the country.

I could add that in official committee meetings we spent approximately 40 days, and many members of the task force spent a great deal of time between committee meetings in actually working on the program of the task force, and interviewing people.

Senator HOLLAND. What was the entire lapsed period of time?

Mr. RUSK. Approximately 10 months.

Senator HOLLAND. From the beginning of your functioning and making your recommendations to the Hoover Commission.

Mr. RUSK. Approximately 10 months, I believe. I have not counted it, but I think that is correct. Yes, about 10 months.

Senator HOLLAND. The 40-day period was the time of the nine meetings of the full task force?

Mr. RUSK. Meetings when we were all together.

Senator HOLLAND. Thank you.

The CHAIRMAN. Thank you very much, Dean Rusk.

Mr. Sanders will be heard next. You were not a member of the task force; were you?

STATEMENT OF J. T. SANDERS, LEGISLATIVE COUNSEL, NATIONAL GRANGE, WASHINGTON, D. C.

Mr. SANDERS. No, sir. We appeared before the task force, however, and Mr. Goss and myself presented the view of the Grange.

The CHAIRMAN. Just go right ahead.

Mr. SANDERS. My name is J. T. Sanders. I am the legislative counsel of the Grange, and appear for the Grange in this statement.

We trust the Senate will reject plan 4 for reorganization of the Department of Agriculture. It grants to the Secretary of Agriculture practically complete authority to reorganize any of the agencies in the Department in any way he sees fit without regard to the expressed wishes of Congress or the expressed recommendations of the Hoover Commission. The theory that we should place full responsibility on an executive and then hold him responsible to get favorable results is merely theory when applied to governmental operations of this kind and does not work out in practice.

Let us assume, for example, that a Secretary of Agriculture with the consent of the President should determine to develop the field organization of the Production and Marketing Administration into a political machine. Who would there be to hold him accountable? Certainly the President would not do so, and certainly there would be no one to hold the President responsible except the people in a general election. While such a move on the part of the Secretary would have a far-reaching effect, it certainly would not be an issue upon which the results of the election were determined. It is more likely that the election would be determined by issues involving our foreign policy or our policy on labor, or some other policy which directly affects the vast majority of the voters, rather than some lesser action on the part of a Cabinet member.

The only way to avoid the possibility of such abuse is for the Congress itself to lay down in the law the broad course it desires to be followed in the administration of the law. Plan 4 would abolish all these safeguards and policies and give the Secretary power to do anything he wanted. We feel this is a most dangerous grant of power.

In the case of the Department of Agriculture we will confine our comments to the effect upon the Farm Credit Administration alone, for we believe it will illustrate the dangers which probably exist in other divisions under the Department. We will not even try to discuss all the dangers with reference to Farm Credit but will confine our comments to three points.

First, it should be recognized that the purpose of the Farm Loan Act of 1916 was to aid the farmers in establishing their own credit system; that it was to belong to the farmers and be run by them subject to supervision to see that the law is complied with, the appraisals properly made, and the accounting adequately performed. The success or failure of the venture was to be dependent upon the sound management of the farmers themselves. If they managed their business well, they could obtain their money at reasonable rates of interest through the sale of their bonds in the market place. If they did not manage their business well, their bonds would not command a good price and their business would suffer because the bonds are issued with no guaranty of Government but stand simply upon the sound performance of the farmers. This is the basis upon which all cooperatives should operate.

This procedure is set out in detail under the law. Certain responsibilities are given to the Land Bank Commissioner in regard to supervision; and his responsibilities are defined and his authority limited. Under the proposal all these definitions and limitations are eliminated. In fact, under the Hoover Commission report, the office itself would be eliminated and the farmers deprived of their right to operate their own institution even though they have paid off all the Government advances, are furnishing every dollar of capital, and were guaranteed the right to run their affairs under the law.

Second, these safeguards are supported by the various recommendations of the Hoover Commission report which carries a number of safeguards in its recommendations. We call your attention to the fact, however, that the Secretary would not have to follow the Hoover report and could ignore all the safeguards. We call your further attention to the fact that about 10 years ago the Department of Agriculture made an effort to take the control of the farm loan associations completely out of the hands of the farmers and establish it as a Government lending organization. This was defeated only after months of costly effort by the farm organizations representing the farmers themselves. There is no safeguard in plan 4, which would prevent a successful conclusion of another such effort, and the farmers would not have recourse to the Congress to protect their interests.

Third, the farm organizations have wanted for years to reestablish their own farm credit system under an independent agency similar to the Federal Reserve Board so that it would not be subject to political influences. It is reported that the Secretary of Agriculture stated as one of his reasons for opposing any such move that it would be wise to keep the Farm Credit Administration in the Department of Agriculture, so that financial aid could be obtained through it in carrying out the farm program. There are at present many provisions of law which would make it difficult so to use this cooperative farm credit system, but if plan 4 were permitted to go into effect, these safeguards would be abolished and there would be many ways in which this farmer-owned institution could be used to help carry out a farm program in which the owners of the farm loan system had no interest or to which they might even be opposed.

We want to make it clear that we wish to support the main purposes of the Hoover Commission in effecting economies and better administration, but we believe that every proposal should he considered on its merits; that they should be rejected if they are unsound; strengthened if they are weak; and approved if they are sound with definite provisions written into the law designed to assure that the administration is carried out as intended. Either Congress should draft the amendments itself or, if they are to be provided by the administration, the administration should hold hearings and make a real effort to draft the proposal on a sound basis before it is presented to Congress. The draft should be explicit in its details so that Congress would know what it was approving before passing upon it.

We wish to call one more point to your attention. It has been suggested that Congress adopt a resolution in place of the plan 4 giving the Secretary broad authority within the recommendations of the task force. We are equally opposed to any such proposal, not only because many of the recommendations are too wide open, but some of them are not well thought through. The effort to consolidate the

management of Government institutions, semi-Government institutions, and wholly owned farm institutions under one man, for example, would assure that the farmers would never be in position to operate and manage their own institutions, a goal for which the farm loan associations have worked for over 30 years. The attainment of this goal is one of the incentives they have had for operating on a sound basis.

Another recommendation that they be not permitted to own Government bonds, but be given a credit on the books of the Treasury, would also destroy their autonomy and injure their credit, because the liquidity of the Government bond is a major factor in the maintenance of the type of short-term credit they need. Also the recommendation that they be deprived of the right to issue bonds but be required to get their money from the Federal Treasury would assure political domination rather than independence. The only safe way to avoid all these dangers is to defeat plan 4 now.

We are working with the other farm organizations in an effort to work out a mutually satisfactory bill. We assure the committee that we stand ready to assist it in working out a satisfactory reorganization plan for the Department and will work for its passage at this session.

The CHAIRMAN. Are there any questions?

Senator SCHOEPPEL. Mr. Sanders, I note on page 3 in your paragraph 8, where you say that you wish to make it clear that you desire to support the main purposes of the Hoover Commission, I know that you have checked and read with great interest, and I note some alarm, as have I, what this program submitted on the part of the President here entails, but do you see any specific detailed program set down by the President under this other than with the designation of the additional Assistant Secretaries that would give you any indication as to what the proposed plan might be?

Mr. SANDERS. That is the way we feel about it, exactly, that under plan 4, the Secretary could do practically everything that was not recommended in the Hoover Commission, and do nothing that was recommended, if he wanted to. We feel that plan 4 would practically give the Secretary that power.

Senator SCHOEPPEL. And it would be your thought then, I take it, that had a plan come down here somewhat based upon the recommendations or the suggestions of the Hoover Commission or the task force, that we would have had something concrete and positive, and certain, that we could have looked to as a guidance factor, so to speak, do you not?

Mr. SANDERS. That is exactly the way we feel. We feel that such a bill should be brought here, and that is what we would hope to do working with the farm organizations, to bring in in a short time, a reasonable plan of organization of the Department of Agriculture, following in general the major recommendations laid down by the Hoover Commission. We do not, as we have shown here, agree with all of the recommendations of the task force, or of the Hoover Commission, but those are not major conditions. The credit recommendation of the Commission is a major error in trying to group all of the credit organizations, regardless of whether the farmers own them or not, in a unit of administration in and under the control of the Department of Agriculture. That would give the Secretary authority to control those farmer-owned institutions.

Senator SCHOEPPEL. You feel that until such a plan is submitted, a plan that will give you and the members of your organization an opportunity to see what direction this thing is going to take, how all-encompassing it is, that you would be disposed to look with disfavor upon any such wide open plan as has here now been suggested for the Congress to adopt?

Mr. SANDERS. Quite so, quite certainly that is our situation.

Senator SCHOEPPEL. Thank you.

The CHAIRMAN. Thank you very much, Mr. Sanders.

I should like to inquire what other witnesses are present that would be available for this afternoon's session?

Mr. DAVIS. John Davis will be here this afternoon.

The CHAIRMAN. Mr. Davis. Mr. Blake, will you be available this afternoon?

Mr. BLAKE. Yes, sir.

The CHAIRMAN. We are trying to get in touch with the Director of the Budget to see if he will be available. I am trying to expedite these hearings because the committee will have other work.

Will you be ready to proceed this afternoon, Mr. Short?

Mr. SHORT. The latter part of the afternoon. We had made our plans and are having the work checked now.

The CHAIRMAN. All right, the committee will recess until 2 o'clock this afternoon, and we will try to have Mr. Lawson present, so that we will have a full afternoon's work.

(Whereupon at 12 noon, the committee recessed to reconvene at 2 p. m., the same day.)

AFTER RECESS

The CHAIRMAN. The committee will come to order.

The first witness we have scheduled for this afternoon is Mr. John Davis of the National Council of Farm Cooperatives.

You may identify yourself, please.

STATEMENT OF JOHN DAVIS, NATIONAL COUNCIL OF FARM COOPERATIVES

Mr. DAVIS. Mr. Chairman and members of the committee, my name is John H. Davis. I am here representing the National Council of Farmer Cooperatives of which I am executive secretary. Our organization is a farm organization made up of farmer marketing and purchasing associations that serve about 2½ million farm families.

At our last annual meeting, and our basic policy is established at our annual meetings, the following resolution which is only one sentence long was adopted with respect to the Hoover Commission report:

> We authorize and direct the National Council officers to actively assist in attaining the general objectives of the economy and efficiency in government as set forth in the report of that Commission.

So we favor, and support the general objectives of the Hoover Commission report.

However, we do not feel that plan No. 4 moves in that direction. We feel that it leaves too much open to discretion and too much latitude for the people who are carrying it out.

I am not going to repeat the testimony covering the ground that was covered here this morning. Rather I want to make two points which were not particularly emphasized this morning.

At the present time our basic agricultural policy, is in more or less of a state of flux. The farm plan that will be the basic structure for the next several years is not definitely crystalized. There are various plans that are up for discussion, and it seems to us that it is very difficult and unwise to try to reorganize the Department until we know what kind of farm plan the Department is to carry out.

I think we will know much more about the shape of our farm policy within a few months, and the reorganization should be geared to the evolving farm policy. So we do not think now is a good time for a reorganization to take place.

We feel further that Congress should assume the responsibility for the laying out of the general outline of organization at the time Congress lays out the general outline of basic farm policy.

The other point that I want to make is this: Within the Department of Agriculture there are a number of strong, well organized agencies. They are agencies that are set up to carry out important functions. The people that are heading those agencies and that are working in those agencies are most of them very sincere people, but it is only human nature for a person to think that his particular task and his particular agency is the most important. The result is that whenever a reorganization takes place in the Department, and they are fairly common, it is more or less a matter of rivalry among agencies as to which particular program and agency will be dominant. I think that any future reorganizations will pretty much suffer from the same type of pressure from within the department. This being true, it seems to us that it is going to be very difficult for any Secretary of Agriculture, and this is no reflection upon any particular Secretary of Agriculture, to build and put into effect from within the Department the outline of a sound reorganization.

That is further reason why we think that the general pattern, the over-all pattern, should be laid down by Congress.

Again, for emphasis, I will state that we think that it is important that the formulating of the plan of organization should be kept in gear and synchronized with the evolution of general farm policy, because the only purpose of an organization in the Department is to carry out farm policy and the type of policy more or less determines the type of organization which is needed.

So in conclusion, I want to say for the reasons I have stated, we are supporting Senate Resolution 263.

The CHAIRMAN. What is your objection to this plan? You say, you indicate that you think any plan right now may be—would be—premature, because a definite agricultural policy has not yet materialized; has not been formulated, and that you think reorganization ought to be geared to that, but we have a plan before us, we have to accept or reject it, whether it is premature or not. Is there anything in this plan, in the plan itself as presented to the Congress, that you disapprove of or do you think this plan at the right time would be the plan that ought to be submitted?

Mr. DAVIS. May we go back to the original plan that was submitted by the Hoover Commission. It sets up eight general agencies

of Government. There is nothing in this plan No. 4 that indicates that the administration has in mind these general functions and organizations or any others similiar. The thing that we object to most, is that plan 4 turns over to the Secretary the whole job of reorganization, and then it provides that if after experimentation with such plan that does not work, he is free to reorganize it again, as he sees fit.

We think that the task of organizing or reorganizing the Department is so basic for the welfare of the farmers and so much a part of the over-all farm policy that that job ought to be done by the Congress.

The CHAIRMAN. Do you favor the basic recommendations of the Hoover Commission with respect to how the Department of Agriculture should be reorganized?

Mr. DAVIS. In general we do. We have some reservations, particularly with respect to the Farm Credit Administration, and we feel there needs to be a stronger organization to service marketing through regular trade channels, but in general we do favor it, and that is the sense of the resolution which I read to you that was adopted at our annual meeting.

The CHAIRMAN. Do you find anything in this plan or what do you find in this plan that indicates that the recommendations of the Hoover Commission will be the plan that will be put into effect?

Mr. DAVIS. There is nothing in this that indicates exactly what they have in mind. We do favor the setting up of two Assistant Secretaries. We think that that is moving in the right direction, because the duties that are to be performed are very involved in the Department as to justify this. We oppose plan No. 4 because it turns over the whole job of reorganizing and determining the center of emphasis within the Department to the Secretary. If I were Secretary I certainly would prefer to have Congress outline the organization structure, rather than attempt to do it myself.

The CHAIRMAN. Senator Leahy, any questions?

Senator LEAHY. No.

The CHAIRMAN. Senator Schoeppel?

Senator SCHOEPPEL. Mr. Davis, you fail to see anything in the President's recommendation here with reference to plan 4 that would require the Secretary to follow any specific recommendations, because outside of the changes and the additions of the Assistant Secretaries, I take it that you fail to find any specific designated plan that would follow in general what the Hoover Commission or the task force have suggested should be the reorganizational pattern of this Department, do you?

Mr. DAVIS. That is correct.

Senator SCHOEPPEL. And you are fearful, as I interpret your testimony, of permitting the Secretary to have that broad discretionary power without some directional guidance on the part of the Congress or from the President?

Mr. DAVIS. That is correct.

Senator SCHOEPPEL. In the reorganization of this Department?

Mr. DAVIS. That is correct, sir.

Senator SCHOEPPEL. As I listened to your testimony, that is about the way it sums itself up to me.

Mr. DAVIS. That is correct, sir.

Senator SCHOEPPEL. And if this plan had been sent down with certain designated improvements within the Department that the President or his advisors in their judgment could have incorporated here, your position, and the position of the membership that you represent, might not be the way it is today, because you say that generally speaking you favor some type of reorganization plan for this Department?

Mr. DAVIS. That is exactly right.

Senator SCHOEPPEL. Do you not think that is the inherent weakness in this whole thing?

Mr. DAVIS. That is correct, yes; it is the weakness.

Senator SCHOEPPEL. Do you think that members of Congress who are going to be responsible, in a measure, if they give this authority to this Department head, might be answerable for some of the shortcomings that might develop?

Mr. DAVIS. I think Congress would be answerable, because Congress would be permiting the authority for reorganization to be vested in the Secretary by not acting.

Senator SCHOEPPEL. Thank you.

The CHAIRMAN. Thank you, Mr. Davis, very much.

Mr. DAVIS. Thank you.

The CHAIRMAN. We will next hear from Mr. Blake.

Will you identify yourself, please. Do you have a prepared statement?

STATEMENT OF WILLIAM RHEA BLAKE, EXECUTIVE VICE PRESIDENT, NATIONAL COTTON COUNCIL, MEMPHIS, TENN.

Mr. BLAKE. No, sir. I plan to speak from a few notes here.

The CHAIRMAN. You may proceed.

Mr. BLAKE. My name is William Rhea Blake. I am executive vice president of the National Cotton Council, with headquarters at Memphis, Tenn.

As was mentioned this morning, Mr. Chairman and gentlemen of the committee, I also happen to be a member of the former task force committee, the Agricultural Task Force, that worked under the Hoover Commission.

I would like to say at the outset that I am here, both as an individual and representing the National Cotton Council, because we are for the Hoover Commission report. We are also for the resolution before this committee to disapprove plan 4 because plan 4 does not carry out the recommendations of the Hoover Commission.

Under plan 4, if the Congress permits it to go into effect, as we see it, the Secretary could do exactly what the Hoover Commission recommended. He could also do exactly opposite from what the Hoover Commission recommended, or he could do nothing, or he could do anything in between. We do not think that that is in keeping with either the spirit of the letter or the Hoover Commission report.

I want to make this clear. What I am saying about the Secretary is not directed at the present Secretary; it is directed at whoever may be Secretary of Agriculture, because under this plan the authority to reorganize now and then next year reorganize again, and keep on

reorganizing in the future is vested in whoever may be the Secretary of Agriculture.

We do not feel that that broad grant of authority to any Secretary of Agriculture, as I say, is either in keeping with the spirit or the letter of the Hoover Commission recommendations.

Mr. Chairman, I would like to comment just a moment on this theory of executive authority that apparently this plan stems from. With respect to the authority of the Secretary, our task force committee recommended that within the basic organizational framework recommended by the Hoover Commission the Secretary have full and complete authority to discharge his responsibilities and run his Department. Of course anybody that is given the responsibility of running an organization of any kind has got to have that sort of authority, but we did not recommend a broad grant of authority to the Secretary to either set up a new organization in any way that he saw fit, or to change it after it was set up.

Again on the point of this theory of executive authority, I do not know anywhere except maybe in a one-man business, I do not know of any instance, whether it be in a public organization or whether it be in a private organization, where the head man of an organization is given any such broad grant of authority as is provided in this plan. In the great corporations of this country, the private business institutions—and they are by and large pretty efficient, they are considered to have good management—the president of that company is not authorized to reorganize it and change its organizational structure at will, particularly its basic organizational structure. He is not authorized to do that without approval of his board of directors, and his board of directors are representing the stockholders of that company.

So in the most efficient businesses of this country if that type of procedure is not followed, why should it be followed with respect to governmental organizations? As a matter of fact, you need far more control, far more safeguards, it seems to me, in an organization of the Government than you do in a private business. If the president of the steel corporation reorganizes the steel corporation and makes a mistake, some bad ones, he may cost his company and stockholders some money, but that is of slight consequence compared with a man at the head of the Department of Agriculture making a mistake. That would affect the lives, as Senator Holland brought out here so beautifully this morning, of millions of people in this country, and affect their well-being and their farms and their method of making a living.

So I do not quite understand this theory of broad executive authority, such as is contemplated in this plan. I think it is just fundamentally bad. I do not think there is any need for it. I do not think it is a safe and sound procedure, and for that reason, if for no other, I think Reorganization Plan No. 4 should be disapproved.

Another point in that same connection, Mr. Chairman, is why did we have a Hoover Commission in the first instance? If the plan of reorganizing the executive departments of the Government, if the method of reorganization was going to be to simply turn over to the heads of those executive departments carte blanche authority to reorganize them any way they saw fit, then what did we need with the Hoover Commission? Why did this task force committee that some

of us worked on, spend 10 months sweating and stewing around and talking to dozens and dozens of people and trying to put something together that made sense in the way of an orderly reorganization plan for the Department? And why did the Hoover Commission itself spend all of the months of work that it spent if in the final analysis the way to reorganize the Federal Government was simply to write blank checks to each of the department heads and let them go their way?

Now, I would also like to comment on what our task force tried to do. I do not mean as to the details of what they recommended, because I realize that that is a subject that is not before this committee at the moment, and I do not want to take your time up with that. As to the general way we approached this thing, we recommended a specific plan, a blueprint of organization for the Department. We recommended that there be an office of the Secretary and then there be six functional operating units in that Department. It was not vague, it was not general; we recommended no broad grant of authority to the Secretary to deviate from that basic organization structure. We tried to provide a structure based on the functional approach under which any activity of the department could be carried out. As a matter of fact, we went back over all of the activities that the Department ever carried on, all of the functions they ever performed since it was first established, and we examined what they were now doing. Every single thing that the Department has ever done, or is now doing, or insofar as we could conceive could ever be called on to do, can be performed under one of those six major operating units.

So actually what we tried very hard to do was to develop a plan of reorganization, Mr. Chairman, that would make unnecessary these constant reorganizations in the future. Reorganizations are very costly and expensive things. They tear up the morale of your people. They cost money. They are not good to have to go through every few years. We tried to provide a simplified structure where the basic structure would not ever have to be reorganized again.

We prepared that plan, and it was specific and it was detailed. We prepared it with the thought in mind, and I am sure that I am speaking for every member of the task force committee on this point—every one of us had in mind that when we finished our job and made our report to the Commission, and when the Commission in turn had looked it over and had made such revisions as it saw fit, it would then be submitted to the Congress. We all thought that it would go to the Congress, be examined and modified by the appropriate committees of the Congress, and be enacted by the Congress into law. We had no idea that there would be this sort of an approach made in handling this matter. In fact, we did not conceive that the proposal could be carried out without going into all of the basic legislation that has been accumulating for years, setting up this, that and the other programs in the Department of Agriculture. I do not know what really the Reorganization Plan 4 means. Does it wipe out all of the directives in these various pieces of legislation in the past? Does it give the Secretary the right to ignore those and start afresh? In many instances we think that previous legislation setting up these programs would need to be repealed, and a fresh start taken, because in reorganization you sometimes find it necessary to take two things that were

formerly set up and merge them into one, and if that basic legislation is not repealed, I do not know how you would go about it.

I am not too sure that I understand fully all that might be done under plan 4. There is some question there. But in any event, the point I want to make is that we had in mind that, when this job was done, it would be submitted to the Congress. Just as Dr. Sanders of the Grange testified this morning, there were certain parts of our task force recommendation that the Grange did not agree with. That is to be expected. I am quite sure there will be other things in there that the Farm Bureau and the other farm organizations will not agree with and that the Department will not agree with. But we thought this matter was coming to the Congress, and that everyone would come in and have a chance to present his views, and then that the Congress would decide what was going to be the basic organizational plan and structure for the Department of Agriculture.

That was our concept of the thing, and we still think that that is what should be done.

In conclusion, we have three recommendations to make.

No. 1, that this resolution disapproving plan 4 be approved.

No. 2, that the Congress take up the job of reorganizing the Department of Agriculture, or adopting legislation to provide for a plan of reorganization of the Department of Agriculture along the lines recommended by the Hoover Commission.

No. 3, that provision be made for flexibility of organization in the future. We realize that the plan adopted in 1950 might not fit conditions in 1960 in some particulars. We did think, as I said before, that the basic structure could probably stand through the years, but that may even be in error in judgment. In any event, there will be need for changes that will require reorganization on down the line in the Department in the future, and we have tried to figure how you could provide for that sort of flexibility, and how you could give the Secretary some initiative in the matter of instituting reorganizations along that line. Mr. Chairman, the best thing we have been able to think of is to use somewhat the same device you are using right here on these present reorganization plans. Insofar as fundamental changes in organization in the future are concerned, you might provide that the Secretary, or the President, might submit a plan for further reorganization in the Department to the Congress, and if it were not disapproved within a given period of time by either House, then it would automatically go into effect, something along the same lines that you are now following.

I believe that concludes my remarks.

The CHAIRMAN. You say you are not sure just what this plan does, how much authority is being given.

Mr. BLAKE. I am not certain. It seems to me that it is a very, very broad grant of authority. I do not know how broad.

The CHAIRMAN. You know it is broad, but just how broad you do not know?

Mr. BLAKE. I know it is too broad. How much too broad, I do not know.

The CHAIRMAN. Of course, I do not think the Congress or the President in submitting the reorganization plan is absolutely bound by the Hoover Commission reports. In the first place, I think they

simply constitute a recommendation from a source that Congress created and empowered to study the needs of reorganization and to submit to us the best blueprint it could of how reorganization might be effected, so as to produce more efficiency, greater efficiency, and more economical cost of operation. So I want to say this for the record. I do not think that the President is necessarily bound in any reorganization plan to follow every recommendation of the Hoover Commission, because as a member of that Commission I made rather general reservations as to all recommendations, knowing that I would have another duty to perform when these plans came down, when bills came up undertaking to implement and put into effect those recommendations, and there might be developments in testimony like this, or in arguments presented in debate that would clearly indicate to me that some recommendation was wrong or should be modified or changed. But I do feel that when the President submits a plan, it either should conform to the Hoover Commission recommendations or constitute within itself a plan that informed the Congress of what is being attempted so that the Congress can pass upon it.

It seems to me just up to this point in the hearings, the principal issue is that we have before us a plan that is not a plan but is a delegation of power to one man to do the reorganization job without imposing upon him any obligation to follow the Hoover Commission recommendations or to do anything else necessarily that the Congress might hope would be done, and once that power is delegated in the plan proposed, the Congress loses absolute control, whereas now it does retain a measure of control over the plans the President submits. We can reject or we can by inaction permit them to go into effect, but this plan, whatever the Secretary may do hereafter toward taking part of the Hoover Commission recommendations or toward taking none of the Hoover Commission recommendations, or interposing his own ideas of reorganization, the Congress under this plan loses absolute control. But so far as passing on the reorganization that the Secretary would be authorized to make, we would have no opportunity to do so.

That seems to me like the real issue in this plan; whether it is all right to do that or not, there may be differences of opinion, but that seems to me to be where we are under this plan as it is before us. Is that your view of it?

Mr. Blake. Yes, sir; exactly.

The Chairman. I want to say again I do not feel under obligation to conform to every recommendation of the Hoover Commission. I do not think the President's view is that way. He might have something to submit that might be better and the Congress might find something better or, upon closer evaluation and examination, we might find some defect in a recommendation of the Hoover Commission. But the real point is that the Congress should either approve a plan that is submitted to them or legislate a plan, but there ought to be a plan, and we should know what kind of a structure we are going to have when the plan is carried out, when the reorganization has been effected, and the trouble with this is that nobody knows. I am wondering if the Secretary of Agriculture himself knows at this moment what character of reorganization he will carry out under this plan.

Are there any questions?

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Senator LEAHY. Did the Hoover Commission recommend that even if a plan were adopted and put into effect that the Secretary of Agriculture still could change that plan as he might deem necessary?

Mr. BLAKE. I would not want to try to interpret the recommendation of the Hoover Commission. Our task force committee did not recommend that. We did not recommend that he could change the basic organizational struture that we recommended in our report to the Hoover Commission. The Hoover Commission did, I think, adopt a principle of a broader type of authority than we had recommended. But I do not know whether the Hoover Commission recommendation would go as far as you just indicated or not. That is just a matter of interpretation that I do not think I am qualified to make.

I might add, Mr. Chairman, that we do not think that, so far as future is concerned, that the Secretary of Agriculture should have the authority to make those basic changes without approval of Congress.

The CHAIRMAN. In other words, you do not think that any power should be delegated for continuing reorganization, not only of this agency but any other agency.

Mr. BLAKE. That is exactly what I think.

Senator LEAHY. I find this in the report of the Hoover Commission:

> We are not, however, recommending a hard and fast rule. The Secretary would determine the organization, be free to amend it, and assign the duties of the Assistant Secretaries.

Does that not mean that, even if a plan were adopted and put into effect, the Secretary would still have the right to change that plan as he saw fit?

Mr. BLAKE. I would assume that that would mean that, sir. I would not agee with it, however.

Senator LEAHY. If the Hoover Commission recommended that the Secretary in that case could change the plan, what is the difference between that and giving him the power in the first instance to adopt his own plan?

Mr. BLAKE. Well, I do not guess there is substantially any difference, because he could change it the day after it was made, for that matter. However, again I say I do not know of any justification in private industry or private business or in any public organization for the centering in any one man of that kind of authority without any checks on him at all, without any balances or anybody to clear through. Every business head has got his board of directors that he has to answer to, and also his stockholders, American business is pretty efficient, and if that system is good enough to run the most efficient businesses in this country, it seems to me it is good enough to run the Government by.

Senator LEAHY. In that respect, you disagree with the report of the Hoover Commission, do you not?

Mr. BLAKE. Yes, sir; in that respect, I would. And, as Senator McClellan said a moment ago, I do not think there is anything sacred about any of these recommendations. Certainly that applies to our task force recommendations. They were simply the best that we could devise, I think the Hoover Commission recommendations fall in the same category. However, we felt that the recommendations submitted with respect to agriculture would give the Congress a blueprint to work from. We never had any idea that the Congress would not make a good many changes, but that the end product would

be a better organization than it would have been had not that intensive research and planning effort by the Hoover Commission been made. That was our general feeling about it, and it still is mine.

The CHAIRMAN. Have you any questions, Mrs. Smith?

Senator SMITH. Actually the ideal way would be for the Secretary, who knows best about the needs for the reorganization, for the Secretary to make his proposals, send them to Congress for approval or disapproval.

The CHAIRMAN. Which he could do by sending them through the President and have a definite plan.

Senator SMITH. Is that what you had in mind?

Mr. BLAKE. That would be one route. The other route would be if the Secretary did not care to take the initiative in that matter, it could be done by the Congress. I mean that legislation could be drawn and submitted to the proper committees of Congress, and then they in turn could go through their normal processes, and come out with a bill. The point was made by one of the witnesses, and I think maybe two or three this morning, that this was quite a job to put on the Secretary alone. He is subject to all sorts of pressures, both from within and from without the Department, and I could conceive of a Secretary preferring not to take all of that responsibility.

Senator SMITH. It seems to me it would be a good job for anybody. If the Secretary is pressured, what do you think about Congress being pressured. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Schoeppel.

Senator SCHOEPPEL. Mr. Blake, you of course were a member of this task force.

Mr. BLAKE. Yes, sir.

Senator SCHOEPPEL. And as Dean Rusk testified this morning, you ment collaborated over a period of about 10 months, did you not?

Mr. BLAKE. Yes.

Senator SCHOEPPEL. You and your subcommittees and the various subdivisions probably interviewed hundreds of what you thought were qualified men to express some kind of judgment on the agricultural situation and the Department of Agriculture, and the effect of bettering it or stopping some of the duplications and many other things.

Mr. BLAKE. Yes, sir.

Senator SCHOEPPEL. As a result of that, to get into the record once more, you came up with the best considered judgment which was a pattern of organization that you had confidence in resulting from all of this investigation, did you not?

Mr. BLAKE. Yes.

Senator SCHOEPPEL. You submitted that to the panel of the Hoover Commission proper.

Mr. BLAKE. Yes, sir.

Senator SCHOEPPEL. You said there was nothing sacred about it. My judgment is there is nothing sacred about the Hoover Commission but it provides a workable pattern.

Mr. BLAKE. Yes.

Senator SCHOEPPEL. There is nothing sacred about the plan from the President, so far as this Senator from Kansas is concerned, because I do not see too much to hang my hat on.

Out of this pattern, though, I am sure that the Hoover Commission task force and some members of the Hoover Commission must have anticipated that there would be submitted here out of 10 months work and effort some type of structure that could be passed upon in the acceptance or the rejection of a plan that embodied it. As I gather you are somewhat disappointed because that was not forthcoming. In other words, you do not see the framework of a pattern here.

Mr. BLAKE. That is right.

Senator SCHOEPPEL. That would not justify your organization, certainly, in giving carte blanche authority to the Secretary of Agriculture to do with it as he wanted to, or if Congress accepted the plan to abrogate its responsibility over it, and you have some fears about that, do you not?

Mr. BLAKE. Yes, sir.

Senator SCHOEPPEL. And I might say to you quite frankly that I do not think your fears are unfounded, because Congress has a responsibility here, and if we let this thing go, by default, or if we fail to reject this plan, it will go into effect, and then we are going to have some cutting and slashing and some putting together and taking apart in this one great Department that is pretty close to Members of Congress, and the citizens of this country, and I want to say to you, how do you think this Hoover Commission report was sold to the country? Do you think you could have sold this plan on such a wide-open basis as comes down to us today and to the country from the President?

Mr. BLAKE. No, sir.

Senator SCHOEPPEL. I do say that you could not have sold it in the State of Kansas in the form sent down by the President. I think that the big question we have to decide in the acceptance or the rejection of this plan is how far will it go. What will be accomplished? Who has the entire responsibility? And I share some responsibility, I hope, in trying to effect some type of a reorganization plan that conforms to a similar pattern as set forth by the Hoover Commission.

The Secretary of Agriculture, pursuant to the request by the chairman of our committee in his letter, which is a matter of record here, did not agree with too much of the framework of the suggested pattern of the Hoover Commission.

Mr. BLAKE. That is correct.

Senator SCHOEPPEL. Let us assume that the Congress rejects this plan, then we will have to approach it either by another plan that will be submitted by the President in due course, or by some type of legislation that will seek to do the job within the framework of the Hoover Commission or the task force. Of course, it would be submitted and sent to the committees of the House or the Senate, and we would have hearings on it. That is about the only alternative that is awaiting us if this plan is rejected, is it not?

Mr. BLAKE. Yes, sir.

Senator SCHOEPPEL. Your organization, I think, made it quite clear, the way I get it, that it was not against some type of reorganization plan that will embody something that you have given 10 months of your time and study and efforts towards. Is that correct?

Mr. BLAKE. I started out by saying that I was here because I personally and my organization are for the Hoover report. I do not

mean for every line of it or every paragraph in it, but we are for the basic objectives. And we are not just giving lip service to the basic objectives and leaving out the important details. We are for the basic structure as recommended in the task force recommendations to the Hoover Commission. We are for it, and we are opposed to this other thing, because we definitely do not see that it will insure the carrying out of the recommendations of the Hoover Commission. It permits those recommendations to be ignored or a type of organization to go in that would have exactly the opposite effect, if anybody was so minded to put it in that way.

We are here because we are for real reorganization and we are not here to suggest that you kill plan 4 and do nothing in its place. We definitely want to see some means or some steps taken to get this reorganization carried out along the general lines that have been recommended. I do not know what the best procedure is. You said there is one of two. Either another plan is submitted by the President, that is a plan and not just a void with just a few little points covered and the rest of it just a blank—because that is what this thing is. Either a plan that is a plan, a definite specific plan, should be submitted in due course, or appropriate legislation should be introduced and referred to the proper committees of the Congress, and the plan be worked out there.

I am frankly inclined to the latter approach in view of the fact that the Secretary of Agriculture, in his letter of last July 8, indicated so many doubts, so many disagreements with the recommendations of the Commission. In other words, if the Secretary were to submit a plan that failed as completely as his letter of July 8, 1949, indicated, to carry out the recommendations of the Hoover Commission, why, of course we would be right back here being opposed to that plan. And we do not want to have to go through this wringer too many times on opposing plans. We want to get something done.

I think the legislative approach is probably the answer to getting something done, and I hope legislation to that effect will be introduced shortly.

Senator SCHOEPPEL. Thank you.

The CHAIRMAN. Senator Thye, do you care to ask any questions?

Senator THYE. No, thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Mr. BLAKE. Thank you.

The CHAIRMAN. Mr. Short, will you come forward, please, and identify yourself for the record.

STATEMENT OF R. E. SHORT, VICE PRESIDENT, AMERICAN FARM BUREAU FEDERATION

Mr. SHORT. As has already been indicated, I am a citizen of the State of Arkansas, and also vice president of the American Farm Bureau Federation. I appreciate the opportunity to appear before this committee and testify in behalf of the American Farm Bureau Federation. I would like to indicate to the committee that we also have some other members of the board and other representatives of the American Farm Bureau present. They are Mr. Hassil E. Schenck, president of the Indiana Farm Bureau and a member of the board and executive committee; Mr. George Wilson, a member of the board from

the western region, and also a member of the executive committee; Mr. Warren W. Hawley, president of the New York Farm Bureau and a member of the board and executive committee; Mr. H. L. Wingate, president of the Georgia Farm Bureau Federation and a member of the board, and Mr. Wilson A. Heaps, president of the Maryland Farm Bureau and a member of the board, Mr. John Ford, executive vice president of the Florida Farm Bureau.

At the conclusion of my testimony, if any member of the committee cares to ask these gentlemen any questions, I am sure they will be very happy to answer.

The CHAIRMAN. In fact, they support the views that you will express?

Mr. SHORT. They do.

The American Farm Bureau Federation is a general farm organization of more than 1,400,000 farm families residing in 45 States and Puerto Rico. Members of our Federation have long been interested in the problems of governmental reorganization and administration. At the thirty-first annual convention held December 1949, the voting delegates adopted a resolution on decentralization and coordination of Government, which we quote in part:

> There is a growing apprehension of the dangers of overcentralization of governmental administration. Big government increases the need for decentralization. We need to take courageous action if we are to keep big government close to and responsive to the will of the people. The fact that the problem is of national importance does not necessarily mean that the governmental action to solve it must be administered on a Federal basis. Experience has shown us that it is possible to avoid overcentralization by developing programs which have as their pattern of administration Federal, State and local cooperation. Much is to be gained by letting the local people adjust programs to the local needs. The financial condition of some States and many local units of government has caused many people to recognize certain problems as being national in scope to fall prey to the delusion that their solution requires federally administered programs. The fact that the National Government is in a better position to collect taxes in this complex society of ours is no assurance that the Federal Government is in the most advantageous position to administer particular Government programs. We need to survey the area where local government can best perform various functions. Where there is obvious advantage to Federal programs, the administration of such programs should be decentralized. We believe the best way to solve this difficult problem is through the increased use of grants in aid. This need not lead either to excessive Federal control or inefficiency at the State and local level. On the contrary, efficiency may well be greatly increased by virtue of moving responsibility for administration nearer to the people. We support the general conclusions of the Hoover Commission's report, of its study of the organization of the executive branch of Government, including the United States Department of Agriculture. Farm people recognize the great need for economy, efficiency, and businesslike administration of the manifold functions of all operations of the executive branch of Government.

Reorganization Plan No. 4 submitted by the President on March 13 constitutes a general grant of authority to the Secretary of Agriculture, without direction or guidance to him to carry out any phase of reorganization recommended either by the Hoover Commission or its task force on agriculture. Since it is without guide or direction, we regard the plan as an unwise grant of general authority and power.

Reorganization Plan No. 4 is really not a plan. A plan should have recommendations, framework, and structure. Plan 4 does not have these. It is therefore not a plan.

Section 1 (a) reads:

> Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Agriculture all functions of all other officers of the

Department of Agriculture, and all functions of all agencies, employees of such Department.

These words clearly transfer a general and broad grant of authority for reorganization to be effected without compliance with the Reorganization Act of 1949; that is, without reference back to Congress for approval or rejection.

Many of the recommendations of the Hoover Commission require action by the Congress to carry them into effect. As stated in our resolution, we recommend that Congress give early consideration to all of the recommendations of the Commission and therefore adopt a comprehensive plan for the reorganization of the Department of Agriculture.

We shall not attempt at this time to reiterate the many instances of overlap and duplication which have been exposed by the Hoover Commission studies and reports. These are outstanding in their demonstration of the need for a thorough study by the Congress of the administrative organization of the Department of Agriculture.

The Reorganization Plan No. 4 should not be adopted because the plan fails to recognize the more general objectives made by the Hoover Commission, and the task force on agriculture. We feel that a more important thing is a thorough consideration by the Congress of these basic recommendations dealing with the functional organization of the Department, the type of field organization which shall be established to carry out the programs at the State, county, and local levels, and the clarification of agricultural research policy and administration, and other features of the report.

Some question might be raised—we are so concerned about this particular reorganization plan. We would like to call attention to the fact that the United States Department of Agriculture is a very large department; its agencies reach into every State, into every community and into every county, not with just one program, but with several. If in the future, effort was made to misuse this extensive administrative organization, the ill effects or the disadvantages of centralized government might be much more noticeable in an organization of this kind than in some of the other administrative branches of government. We would like to call attention to the fact that the legislative history of the Reorganization Act indicates that the reorganization plans submitted to Congress would be in some detail, so that the Congress would know, and everyone else would know something about the direction the reorganization was taking. Reorganization plans are supposed to go into considerable detail, thus enabling the Congress to have some check on authority granted in the Reorganization Act.

Therefore, we want to again say that by reason of the fact that plan No. 4 is really not a plan—just a grant of authority without congressional check—we feel it should be rejected.

The CHAIRMAN. Have you given any consideration to the section 5 of the plan?

Mr. SHORT. Yes. I am not a lawyer, so I cannot give a legal opinion whether or not the grant of authority in section 5 would permit the Secretary of Agriculture, through reorganization, to abrogate an appropriation act of Congress. Certainly it appears to leave plenty of room for discussion. It seems to me, it should be very carefully looked into.

That raises a further point. There are certain phases of our present agricultural programs that we feel are very important, such as section 32. Section 32 involves an appropriation and this thing could have a material influence upon that program.

The CHAIRMAN. I would not want to pass final judgment on that section, but that presents something that I think Congress should try to know, what the effect of it would be or could be, if that power is granted to the head of an agency or department. I appreciate that Congress has in some instances by legislation, and maybe by provisions in appropriation bills, permitted transfer of funds from 1 or usually I think within 5 or 10 percent or some limitation, that they transfer funds from one function to another, if they were running short in one and had a little excess in the other, something within 5 to 10 percent might be transferred to the other function, but if this was a statute, being presented to us in a bill, authorizing, say, the department of all department heads, giving them that power, I think that the Congress would want to know to what extent that is being done; what power it really confers. It seems really great and pretty broad. I do not mean to say that I think necessarily that the Secretary of Agriculture would wreck any program by transferring funds that were appropriated under one item and for one purpose and one function, to something else, but if the power is as broad as the language indicates, any single program could be virtually wrecked that the Congress might direct be carried out, simply by transferring funds to some other more favored program on the part of the Secretary of Agriculture. I can hardly contemplate that any Secretary of Agriculture would do that, but at the same time this plan or any plan that we permit to become law, permit it to go into effect, actually becomes the law of the land until the Congress acts to repeal it. So I just wondered if you had really given any thought to that section.

Mr. SHORT. We have discussed it, yes, sir, and certainly have listened with interest this morning to some statements regarding it. We have not obtained legal advice on just what it does mean, but certainly I agree with the chairman that very careful thought and consideration should be given to what its real meaning is.

Senator SCHOEPPEL. Might I point out here in reference to section 5, that if we turn to the Reorganization Act itself, under the heading of section 4, section 4 states:

Any reorganization plan transmitted by the President under section 3—

then there are a number of subdivisions there, (1), (2), (3) and under subdivision (4) this language is found:

shall make provision for the transfer of usch unexpended balances of appropriations and of other funds available for use in connection with any function or agency affected by the reorganization as he deems necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have such function after the reorganization plan is effective, but such unexpended balances so transferred shall be used only for the purposes for which such appropriation was originally made.

That is the language of the Reorganization Act itself; yet it does leave some question, as the chairman has suggested in his questions here.

The CHAIRMAN. As I interpret that section of the Reorganization Act, it says the President, in other words, where he transfers one function from one agency to another agency to be administered, then he can transfer in his plans the funds that are unexpended for that purpose, but they still must be for the purpose for which Congress appropriated them. This reorganization plan before us certainly goes even beyond that. It says, the Secretary of Agriculture may from time to time effect such transfers within the Department of Agriculture of any of the records, property, personnel, and unexpended balances available or to be made available. That would take care of future appropriations, it seems to me, of appropriations, allocations, and other funds of such department as he may deem necessary in order to carry out the provisions of this reorganization plan.

He qualifies it by saying the provisions of this reorganization plan, but if the provision of this reorganization plan is that he has the power to keep reorganizing and planning the way he wants to, it means to carry out the provisions of his plan, whatever it finally resolves itself into. It presents a kind of vagueness. Maybe we are all wrong in our interpretation of that; I am not saying it is right, but there is some vagueness. I think the Reorganization Act means this: for example, suppose the President transferred the Forestry Service from the Department of Agriculture back to the Department of the Interior, then he would plan for the transfer of certain unexpended balances to be used for the carrying out of the function for which Congress appropriated the money. That is what I think the Reorganization Act means.

Mr. SHORT. Certainly in the Reorganization Plan No. 4, the language in section 5 is much broader than that in paragraph 4, section 4 of the Reorganization Act, to which attention has been directed here. If this becomes law, the question might arise as to which took precedence, one coming after the other.

The CHAIRMAN. You would raise the question of whether section 5 of the reorganization plan conforms to the law. The question is, has such power been delegated by the Congress in the Reorganization Act that would authorize the President to submit that sort of a plan. In other words, if it does give the Secretary a broader authority and power than the Congress gave to the President by the Reorganization Act, it seems to be without authority of law. I do not know.

Mr. SHORT. The question in my mind is whether it has foundation or not. If this plan is acquiesced in by the Congress of the United States, does it not have the full power and effect of law, whatever action might be taken?

The CHAIRMAN. In the first place, I do not think that Congress could acquiesce in the power that it has not heretofore granted. If the reorganization plan under the Reorganization Act exceeds the act and the power conferred upon the President to submit a plan, I do not think the failure of Congress to disapprove would make it the law of the land. I think that it would be in want of basic power and authority there because it never had been conferred. The inaction of Congress would not necessarily make it the law of the land, because it would be an ultra vires act on the part of the President, going beyond the power that we granted to him in the basic Reorganization Act. I may be wrong. It has been a long time since I tried a lawsuit.

Are there any other questions? Senator Thye?

Senator THYE. None.

The CHAIRMAN. Have you some questions, Senator Smith?

Senator SMITH. No.

The CHAIRMAN. Did you finish, Senator Schoeppel?

Senator SCHOEPPEL. Yes.

The CHAIRMAN. Is there anyone else here that would like to testify before the committee? We have a few minutes. If there is anyone here that is not scheduled who wishes to testify, the committee will be glad to hear you.

I shall announce that Senator Johnston, one of the cosponsors of the resolution, advised me at lunch that he was unable to be present today, as he had expected to be, and to testify before the committee. If he is not able to be present tomorrow—we hope to close these hearings tomorrow—he will be permitted to submit a statement.

(Subsequently Senator Olin D. Johnson of South Carolina indicated verbally that he is very much opposed to Reorganization Plan No. 4.)

I shall insert in the record at this point two letters received from D. Howard Doane of St. Louis, Mo.

(The letters referred to follow:)

ST. LOUIS 8, MO., *April 28, 1950.*

Hon. JOHN L. MCCLELLAN,
Chairman, Senate Committee on Expenditures in the Executive Departments, Washington, D. C.

DEAR SENATOR MCCLELLAN: The only major change between the report of the Task Force on Agriculture and the recommendations of the Commission relates to the manner in which REA was to be set into the functional activities of the Department of Agriculture.

It was never the intention of our task force to destroy the effectiveness of REA. The facts are, experience is showing that its direct line activities do more to harm it than help it. Experience has shown that any direct-line activity of the Department of Agriculture which flows from officials of the Department directly to the farmers can be, and often is, expended in function until under the guise of the original objectives it takes on the form of a miniature Department of Agriculture. This is not the expression of an opinion but rather a statement of fact. May I urge that your committee give serious consideration when reorganization plans reach the stage of constructive suggestions that REA be placed in the position recommended by our task force.

Respectfully submitted.

D. HOWARD DOANE.

ST. LOUIS 8, MO., *April 28, 1950.*

Hon. JOHN L. MCCLELLAN,
Chairman, Senate Committee on Expenditures in the Executive Departments of the Government, Washington, D. C.

DEAR SENATOR MCCLELLAN: It is my understanding that your committee will have under consideration during this coming week the question of allowing plan 4 dealing with the reorganization of the Department of Agriculture to become a law. As a member of the Task Force on Agriculture for the Hoover Commission, I should like to lay before you and your committee my views on the necessity for the reorganization of the Department of Agriculture along lines of the recommendation of our task force. Attempting to express in a few words the essence of our report, I may say that unless the integrity of the functional plan for reorganization is maintained, the reporting services, administrations and bureaus reduced and compressed as we have outlined, a very large part of the effectiveness of our proposals will be lost. If the Secretary is allowed wide powers for reorganization and can expand and multiply personnel and function as has been done in the past, there is little hope for resulting economy. The functional organization which we have proposed goes far in eliminating many duplications which now exist in the Department's organization; for example, research and extension services are widely practiced by many units and this results in conflict, misunder-

standing, bad relationships between Federal and State agencies, and costly duplications and controversies. My understanding of plan 4 as it now exists would make it possible for the Secretary to completely ignore this essential point.

A second essential feature set forth by the task force relates to the creation of one State agency and one county committee, thus eliminating the many duplications now existing. If reorganization of the Department permits any Secretary to develop as many committees and subcommittees as he may desire throughout the States, counties, and townships, he can thus build a political machine that will become so potent that no power can overturn it. Our task force worked many hours and days on a plan to permit the Secretary of Agriculture to carry out all legitimate functions through a single State and a single county committee. I can well understand the objection to this curtailment that an ambitious Secretary might wish to undertake. As I read plan 4 it would appear that the two most vital points in our committee's recommendations could be completely nullified if plan 4 is allowed to be enacted in the law.

I might add that I am in no way connected with any Federal or State agricultural interest and the statements I have just made stem from a sincere desire to see the Department of Agriculture reorganized along sound functional lines and as completely divested from political implications and activities as possible. May I urge that your committee act to disapprove plan 4.

Respectfully submitted.

D. HOWARD DOANE.

The CHAIRMAN. If there are no other witnesses, the committee will stand recessed until 10 a. m. tomorrow morning.

(Whereupon at 3:15 p. m., the committee recessed, to reconvene Wednesday, May 3, 1950, at 10 a. m.)

REORGANIZATION PLAN NO. 4 OF 1950

WEDNESDAY, MAY 3, 1950

UNITED STATES SENATE,
COMMITTEE ON EXPENDITURES IN
THE EXECUTIVE DEPARTMENTS,
Washington, D. C.

The committee met, pursuant to recess, at 10 a. m., in room 357, Senate Office Building, Senator John L. McClellan, chairman, presiding.

Present: Senators McClellan (chairman), Eastland, Humphrey, Benton, Mundt, Margaret Chase Smith, and Schoeppel.

Also Present: Senator Thye and Walter L. Reynolds, chief clerk.

The CHAIRMAN. The committee will come to order.

We will resume hearings on Senate Resolution 263, disapproval of the Reorganization Plan No. 4.

Our first witness is Mr. Lawton, Director of the Bureau of the Budget. You may proceed.

STATEMENT OF FREDERICK J. LAWTON, DIRECTOR, BUREAU OF THE BUDGET

Mr. LAWTON. Reorganization Plan No. 4 is one of a series of six plans designed to improve and strengthen departmental management in the interests of economy and efficiency. Reorganization Plan No. 4 applies to the Department of Agriculture basically the identical reorganization proposed by the Departments of Treasury, Justice, Interior, Commerce, and Labor in plans 1, 2, 3, 5, and 6, respectively.

Reorganization Plan No. 4 transfers to the Secretary of Agriculture all functions now vested in other officers, agencies, or employees of the Department of Agriculture. Except from this transfer are the function of hearing examiners and those of Corporations of the Department, boards of directors and officers of such Corporations, and the Advisory Board of the Commodity Credit Corporation. The Secretary is authorized by the plan to delegate his functions to officers, agencies, and employees of the Department. Finally, the top-management structure of the Department is strengthened in two ways. First, there are provided two additional Assistant Secretaries to be appointed by the President, by and with the advice and consent of the Senate. Second, there is provision for the appointment of an Administrative Assistant Secretary, with the approval of the President, under the classified civil service.

A plan such as this has two major aspects when viewed against the background of its broad objectives of establishing clear lines of authority and accountability within the Department, enabling the Secretary

to make improvements in its internal organization, and providing more adequate assistance to the Secretary in his task of managing the affairs of the Department. One aspect is the contribution of this plan to clarify the total structure of the executive branch—fixing its lines of responsibility to the Chief Executive and the Congress. The other important facet is the specific impact of the plan's provision on the structure of the Department of Agriculture.

Reorganization Plan No. 4, like its counterparts 1, 2, 3, 5, and 6, must be considered as a part of a pattern of organization. In my previous testimony before this committee on similar plans for other departments I have already alluded to the recommendations of the Commission on Organization of the executive branch which considered the type of reorganization proposed by plan No. 4 the indispensible foundation of all reorganization moves in the direction of economy and efficiency. I have mentioned the fact that the need for this type of reform has already been recognized in the legislation reorganizing the Department of State last year and in the changes in the post office structure made by Reorganization Plan No. 3 of 1949. It is clear to those who have grappled with the problems of modern government that this type of reorganization is the keystone of administrative reform. There is no better way to impede economical administration and to conceal inefficiencies than through a diffusion of administrative responsibility such as presently exists. This diffusion reduces materially the effectiveness of the top officials in the executive branch. It contradicts the basis of responsible government by making it extremely difficult to fix specific accountability for the conduct of the executive branch.

As I have already indicated, plans 1 to 6, in helping to simplify the basic organization of the executive branch, also have a specific impact on their respective departmental structures. However, as in the case of the Department of State and the Post Office Department, the Congress itself has from the beginning followed the practice of vesting authority in the Secretary of Agriculture for the performance of almost all functions to be administered within the Department of Agriculture. The Secretary of Agriculture has always enjoyed a more considerable degree of administrative control and discretion than most other department heads. Most of the statutes authorizing agricultural programs and functions vest complete authority in the Secretary.

There are nine major operating units in the Department of Agriculture. This does not include the Corporations, whose functions and status are not affected by this plan. Five of the nine major agencies were established by the Secretary pursuant to the authority vested in him by the Congress for the performance of the functions concerned. The functions administered by these agencies are vested almost exclusively in the Secretary, but as a matter of good administration have been delegated in the main to subordinate officials. The five agencies created by the Secretary are Agricultural Research Administration, Production and Marketing Administration, Commodity Exchange Authority, Extension Service, and Forest Service.

The functions administered by the Soil Conservation Service and the Farmers Home Administration are vested in the Secretary by statute. The Soil Conservation Act required the Secretary to establish the Soil Conservation Service to "exercise the powers conferred

on him." Similarly, the Farmers Home Administration Act contemplated the establishment of the agency of that name. Plan No. 4 would give the Secretary authority, if the need arises, to delegate to other subordinates within the Department responsibility for performance of these functions which are already vested in him by statute.

The two remaining agencies, Rural Electrification Administration and Farm Credit Administration, were originally established outside the Department of Agriculture and later transferred by reorganization plan to the Department in 1939. Under Plan No. 4 these two agencies would be placed in the same administrative relationship to the Secretary as the other agencies which I have just enumerated. This plan, therefore, insofar as it affects the internal structure of the Department, merely follows the long-established pattern of vesting administrative authority in the Secretary of Agriculture for the functions to be administered in his Department.

Reorganization Plan No. 4, like plans 1, 2, 3, 5, and 6, makes provision for an Administrative Assistant Secretary in line with the recommendations of the Commission on Organization. Also following the recommendations of the Commission the plan would give the Department of Agriculture three Assistant Secretaries in place of the present one. The Department of Agriculture for some time now has been the only Executive Department with only one Assistant Secretary. The Secretary of Agriculture needs the assistance which can come from two such additional officials in administering what are some of the largest and most important governmental programs, both in terms of expenditures and in terms of their importance to the national welfare.

Before closing my statement I should like to emphasize to the committee that plan No. 4, like its counterparts for other executive departments, does not affect the substantive programs enacted into law by the Congress. No one of these plans gives the Department head authority to alter the functions and programs enacted by the Congress, nor can the Department head in pursuance of these plans expend funds for any but the purposes expressly authorized by the Congress and in such amounts for each purpose as the Congress has specified. These plans are management plans. They will afford the Secretary the opportunity to review the organization and administration of his Department on a continuing, orderly, and systematic basis. Modifications in structures and changes in assignment of functional responsibilities to key officials may be made as it is demonstrated that they are required in the interests of sounder and more economical administration.

The interests of various groups of citizens properly concerned with segments of the many activities in these Departments may give rise to speculation as to what might be done under these plans to change the organization or assignment of particular functions or groups of functions. These are legitimate concerns. However, we need to guard against conjuring up a spectacle of continuous, drastic reshuffling of governmental functions. Such fears, rising from concerns for particular segments of administration, are not realistic. The plans do not require that any specific reorganization action be taken by the Department heads. More important, these plans are no license for indiscriminate reshuffling. The head of each Depart-

ment concerned is responsible to the President for his actions. Responsibility under these plans is more clearly fixed in the Secretary than ever. The Congress can more effectively exercise surveillance and control under these conditions through its powers of investigation, hearing, legislation, and appropriation, none of which, of course, can be or should be curtailed under this or any other plan.

Reorganization Plan No. 4 has been presented to the Congress as a part of a systematic and uniform approach to the management of the affairs of six major departments of the Government. I trust that the Congress will see fit to permit all of these plans to become effective.

The CHAIRMAN. Mr. Lawton, there is apparently considerable opposition to this plan from testimony the committee has already heard. I do not know what else we will hear; witnesses take the position that, so far as this plan is concerned, it is only a plan to give the Secretary the power to reorganize, and the President himself would not reorganize except by conferring the power on the Secretary. What is your view about that?

Mr. LAWTON. This plan meets the terms of the Reorganization Act, in that it transfers functions, it does transfer them, to the Secretary.

The CHAIRMAN. That is what you mean principally, what the act really contemplated is this section 1 of the plan, which simply transfers all of the administrative powers of the different agencies, with certain exceptions, transfers all of those powers that are now vested by law maybe in some subordinate to the Secretary. That is what it does, is it not?

Mr. LAWTON. That is correct.

The CHAIRMAN. Beyond that, the plan before us does two other things: It provides for two Assistant Secretaries, and an Administrative Secretary; is that correct?

Mr. LAWTON. That is correct.

The CHAIRMAN. That is the objection that has been expressed, that it is simply not a plan; instead of reorganizing, it delegates the power to the Secretary to reorganize, and therefore nobody knows what the reorganization, what form it will take, what shape it will take, what will be done. The plan does not say what will be done other than these powers conferred, and the Hoover Commission recommended a number of things here, and the fear is expressed by representatives of various important segments of agriculture that what the Congress would be doing by adopting this plan, permitting it to go into effect, would simply be to delegate to the Secretary of Agriculture the powers to reorganize as he pleases, and the Congress will lose all control over it, because whatever reorganization he does will not be submitted back to the Congress for approval.

I wish you would comment on that. That is what is before us in pretty strong terms of evidence and opinions and fears expressed.

Mr. LAWTON. The plan will give the Secretary, as you state, the functional responsibility for the activities of the Department other than those expected. It will not guarantee, it will not require any specific change in the alinement of functions. The administration of functions will be that which the Secretary from time to time would determine to be desirable, advisable, or necessary to carry out the activities of his Department. It is on a basis which, as I have stated before, is the prime recommendation of the Hoover Commission, their first recommendation.

The CHAIRMAN. That is the recommendation with respect to authority and line of command, and my feeling about that has always been that that applies definitely with respect to administrative functions. But this plan—who can tell under this plan if it goes into effect whether the Hoover Commission recommendations are going to be followed in the specific reorganization of the Department or whether it will not be followed? Some are probably afraid it will be, and others that it will not be, but the point is, who can tell and who can control it? The Congress cannot; they are through with it.

Mr. LAWTON. The situation is this; the Secretary would have the authority and responsibility to control it.

The CHAIRMAN. In other words, we are delegating all power to him to do it, are we not, under this plan?

Mr. LAWTON. It is provided that he has the authority to make these reorganizations, he or his successors, as conditions may change, in the absence of any statutory provisions later on which would change it.

The CHAIRMAN. Under that authority, whatever changes he makes, the Congress would have no opportunity to pass on them, would it?

Mr. LAWTON. The Congress would have no opportunity under the terms of this reorganization plan to pass on it. The Congress would have the opportunity to consider it and review it.

The CHAIRMAN. The indirect supervision or control over it by appropriations and by investigation and so forth.

Mr. LAWTON. That is correct; or by legislation.

The CHAIRMAN. That is correct, is it not?

Mr. LAWTON. That I think follows this statement of proposed departmental structure on page 7 of the Hoover Report on the Department of Agriculture. The first paragraph that says:

> We have urged in our first report that the foundation of good departmental administration is that the Secretary shall have authority from the Congress to organize and control his organization, and that separate authorities to subordinates be eliminated.

That is the first paragraph under proposed departmental structure of the Hoover report, page 7.

The CHAIRMAN. But the point I am making is simply this: The Reorganization Act delegated to the President the power to submit plans and under certain processes, unless affirmative or negative action is taken by the Congress, the plan goes into effect and becomes law.

The effect of this plan is—I am speaking on the basis of what has been developed here before the committee—that the President in the plan just simply redelegates the power of reorganization without submitting a reorganization structure, he simply delegates that to the Secretary, and, if we approve the plan, then we could very well just have passed a law the Secretary can do all of this himself.

Mr. LAWTON. Just as Congress did for the Department of State last year; it is the same thing.

The CHAIRMAN. That is the effect.

Mr. LAWTON. Yes.

The CHAIRMAN. I just wanted to clear it up so that we can get the record straight on it.

This applies to all of these plans. I raised some question yesterday about this section 5 in this plan, and that section, I believe, may not

be the same number, but it is identical with the concluding sections of all plans.

Mr. LAWTON. That is right.

The CHAIRMAN. I am of the opinion, and of course my opinion is just one country lawyer's opinion, but my opinion is that the language in that section exceeds the authority conferred in the Reorganization Act, because it is not restrictive, it is very, very broad, it permits from time to time the Secretary to transfer appropriations and allocations as he may deem necessary.

Under the Reorganization Act, it was intended only that when functions were transferred should funds be transferred that had been appropriated to those functions and it provides that they could not be used for any other purpose than appropriated for, but no such restriction is in this language.

Mr. LAWTON. This language is restricted by anything that is in the basic law.

The CHAIRMAN. I think I do not care what you put in here, if it went beyond the power in the Reorganization Act, I have serious doubts that it would be effective but, on the other hand, we are again enacting law by this plan that may be changing the basic Reorganization Act, if the Congress gives its approval to it. That is a highly technical and important legal question, but the point I am making is under this language, I do not think anyone could successfully contend that the Secretary of Agriculture, if you did not revert back to the Reorganization Act, could take money that was appropriated for the Forestry Service and transfer it over to Soil Conservation and vice versa.

Mr. LAWTON. I think the restriction in the last clause, "as he may deem necessary in order to carry out the provisions of the reorganization plan"——

The CHAIRMAN. Of this reorganization plan.

Mr. LAWTON. Of this reorganization plan.

The CHAIRMAN. And this plan gives him the power to do most anything.

Mr. LAWTON. Except to change functions. He can transfer the administration of functions but he cannot abolish a function. He cannot create a function under this plan. He can only move the function in its organizational placement from one part of the Department of Agriculture to the other, and designate the agency or officer of the Department that is to carry out that function. The appropriations are made for the carrying on or the funds are provided for some specific function, and he cannot change the price-support law, for example, by anything he does here. He can say that a certain agency shall administer it, but he cannot change the price-support law.

The CHAIRMAN. I am just wondering why we have this section that does not conform with the language of the Reorganization Act, but simply gives the same power that the Reorganization Act gives. I do not know; it is susceptible of two interpretations.

Mr. LAWTON. He does this in order to carry out the provisions of the plan. The President can only send up a plan that meets with the terms of the act, and we felt that it was certainly implicit in there that it was not legally necessary, at least the Department of Justice so felt, to repeat the whole of section 4, sub 4 of the act, in each of these transfers because that section dealing with the transfers of personnel,

records, and other things, in the case of appropriations, states that the President shall make provision in the reorganization plan for the transfer of such unexpended balances of appropriations for use in connection with any function or agency affected as he deems necessary by reason of the reorganization, and for use in connection with the functions affected by reorganization, or for the use of the agency that has those functions and those balances can only be used for the purposes for which the appropriation was originally made. When he makes transfers under this incidental transfer section, that is section 5 of the reorganization plan of personnel, property, and so forth, he does it in order to carry out the provisions of the reorganization plan, which is designed to transfer functions and provide for their delegation. In that case he can use the money only for the respective functions which are transferred because, in accordance with the basic act, he cannot do otherwise.

The CHAIRMAN. He could, though, under this plan and the authority now being delegated to him, he could absolutely refuse to spend the money and suspend virtually the operation of any function that Congress may have directed, could he not?

Mr. LAWTON. No more than he could at present.

The CHAIRMAN. He could not do it at the present time.

Mr. LAWTON. As to the greater part of the Department, he could; he has exactly the same powers after as before.

The CHAIRMAN. Are there any questions?

Mr. LAWTON. A good many of these things are mandatory under the law anyway, and he cannot affect them one way or the other.

The CHAIRMAN. One more point. In this section where it refers to transferring records, property, and so forth, available or to be made available, and so forth, and then the phrase is added there, a clause—

and other funds of such department as he may deem necessary.

What other funds? We have been talking about the funds that were appropriated for a specific purpose. What do you mean, "and other funds"? What does that cover?

Mr. LAWTON. It covers some trust funds, and it covers more particularly and more importantly certain funds that are not directly appropriated, but there is an authorization to borrow from the Treasury, as in the case of the Rural Electrification Administration. The REA funds are not in their strict terms a direct appropriation, but an authority to borrow from the Treasury.

The CHAIRMAN. What trust funds do you refer to?

Mr. LAWTON. There are a number in the various bureaus of the Department. I can get a list of those and put them in the record.

The CHAIRMAN. Is there a considerable number of them?

Mr. LAWTON. Yes. They are listed in the budget.

The CHAIRMAN. What do you say he can do with them under this language "and other funds of such department"?

Mr. LAWTON. If he changes the administration of the particular function from one part of the department to another, he can move the funds over to the people that are going to administer that function in the new place.

The CHAIRMAN. You mean he could not make them available for expenditure for other purposes?

Mr. LAWTON. Not for other purposes; no, sir. None of these funds are available for any purpose except the purpose to carry out the function for which they were appropriated; when that function is transferred, the funds necessarily go with them, or the functions could not be carried out.

The CHAIRMAN. Can he transfer those trust funds for definite purposes? Of course if he transfers the trust from one agency to another, the fund goes with that.

Mr. LAWTON. If the administration of those funds is transferred from one place to another, the funds do not automatically go. They may be listed in an appropriation under a particular agency of the Department of Agriculture. If administration of that function is transferred to another agency in the Department of Agriculture under the reorganization plan, the funds follow the transfer of the function and they would be listed under the second agency, rather than the first.

The CHAIRMAN. Are there any questions?

Senator SCHOEPPEL. You make reference on page 7 to the proposed departmental structure. "In our first report the foundation of good departmental administration is with the Secretary, that the Secretary shall have authority from the Congress to reorganize and control his organization" and so forth. Of course, the Hoover Commission report and the Hoover Commission task force embraced a number of suggestions as a pattern, did they not?

Mr. LAWTON. They did, some of which can be handled by reorganization, some of which can be handled without reorganization authority, and some require legislation.

Senator SCHOEPPEL. Do you agree with me that that language assumes that the Secretary would be governed by some type of a pattern or plan that certainly has been publicized over the country, upon which the task force worked, and submitted to the Hoover Commission, and later the commission published the findings. What did they relate to if not to the findings of this task force and of the Commission that worked for 10 months?

Mr. LAWTON. I would assume that the Commission would hope and desire that the Secretary organize his Department in the sort of framework they had proposed, naturally. Otherwise they would not have made the listing in the report at all.

Senator SCHOEPPEL. I concur with you in that. Relating now to the President's plan which he has submitted, is there not some basis for concern as has been indicated before this committee when the witnesses considering this plan have certainly said no definite pattern has been suggested here in this reorganization plan? Do you not think that probably that is one of the reasons why there is so much opposition manifested here, because no definite pattern has come down from the President, who in his wisdom has suggested this form to us?

Mr. LAWTON. Apparently, and judging from what I have gathered from testimony, that is the basis for that concern. The concern is somewhat mixed. One of the witnesses apparently was afraid the Secretary would in some respects follow the Hoover or task force recommendations; others were afraid that the Secretary would not follow them. The reorganization plan as proposed and submitted does not give a guaranty either way. Whether the proposals will be followed in all of their terms, either the task force report or the Hoover Com-

mission report, which differed in some respects, is a question that would rest with the Secretary of Agriculture in this case.

Senator SCHOEPPEL. I assume you are familiar in a general way, with a letter of the Secretary to the chairman of our committee, when he was asked for his views on the reorganization of this Department, the Secretary very frankly set out some of his views that were in definite variance with some of the recommendations of the Hoover Commission and he made no suggestions as to others, but stated that after some additional study he would probably indicate how he felt about it. That is the basis for additional misgivings and does lend itself to stop, look and listen on the part of some of these organizations that are interested in where we might be going if Congress approves this plan; is not that true?

Mr. LAWTON. That is right. It is a question of whether the Secretary will make the same type of organizational change that different groups of individuals might want. Some might favor these changes; some might be opposed to them. I mean the changes which were recommended. As to the Secretary's present thinking, I believe you can discuss that with him when he appears before you this morning.

Senator SCHOEPPEL. I take it that you have a feeling that the Secretary has certain inherent powers to reorganize his Department outside of this plan or outside of anything we have before us at present.

Mr. LAWTON. He does, because numerous functions have been vested in him by law directly.

Senator SCHOEPPEL. Therefore, is it correct to assume that maybe the President did not have to submit any recommendations that might follow the Hoover Commission suggestions or the task force in that respect?

Mr. LAWTON. He did not have to submit them for all parts of the Department. He submitted these plans according to a single general pattern and because he wanted to submit all departmental plans in the same pattern, that was followed by the Congress last year in the case of two departments. He made no changes, except the one group of exceptions that he made uniformly through these reorganization plans, namely, hearing examiners and corporations within the Department.

Senator SCHOEPPEL. What ultimate good has there been accomplished, then, if certain inherent powers are vested in the Secretary to make these changes?

Mr. LAWTON. Primarily it gives the Secretary authority over four parts of the Department which he did not have on the same basis as he has over the other parts; those are the Soil Conservation, Farmers Home Administration, REA, and the Farm Credit Administration.

Senator SCHOEPPEL. As I understand your testimony, he could not change any of the functional aspects of those.

Mr. LAWTON. He cannot change the functions, no, sir. He can change the place where that function is administered.

Senator SCHOEPPEL. And transfer funds accordingly.

Mr. LAWTON. And transfer the funds to follow the function.

Senator SCHOEPPEL. But it would not change the function?

Mr. LAWTON. No, he has no authority to abolish the function. There is no authority at all to create functions in the act or in the reorganization plans.

Senator SCHOEPPEL. But control them by allocation of funds that he makes in the use, if he does choose to use them.

Mr. LAWTON. Speaking from a practical point of view, I doubt very much whether we need be worried about not using the funds for these functions; certain of them are mandatory functions. There are a number of grant programs that are involved in the Department of Agriculture where the question is settled by law as to the use of the funds. You make grants to States of specific amounts of money under a specific formula. You have a certain mandatory law relating to price supports. There are other programs that do have some flexibility, but the question of using or not using funds, I think, is a rather moot point, on the record.

Senator SCHOEPPEL. Thank you.

Senator HUMPHREY. I wanted to go into further what Senator Schoeppel was asking. Did I not understand you to say that funds were transferred as a follow-up on the transfer of function?

Mr. LAWTON. That is the basis on which the funds are transferred. They are incidental to the transfer of functions made by, and delegations authorized by, the reorganization plan.

Senator HUMPHREY. Is there any authority under existing departmental structure for the Secretary of the Department to withhold the use of funds?

Mr. LAWTON. You have to put that a little bit in reverse, I think. In the ordinary appropriation for administrative purposes, no mandate is there to spend every last dollar. There is no penalty by law or no sanction by law that requires that every nickel of every appropriation be spent. In the first place, it is physically impossible to do it. There is a general provision requesting that funds be apportioned in such manner as will avoid any deficiencies, but the only court decisions that have ever been made on the subject are decisions of the Court of Claims, which hold that an appropriation is an authority and not a mandate to spend money.

Senator HUMPHREY. Your observation was that with the transfer of functions or the regrouping of functions, that there would be a follow-through of the appropriation of the fund, and not a limiting of them or a denial of them; is that your observation?

Mr. LAWTON. There must necessarily be that. Taking a specific case, and the thing that this authority is really necessary for, if a function is performed by bureau A, one of several functions, and you transfer one of several performed by that bureau, and bureau A has a single administrative expense appropriation for salaries, and so forth, when you transfer one of those to agency B, you have to transfer with it funds necessary to carry out that function in agency B, and you have to, in some cases, take a part of an appropriation for administration and move it over to the agency that is going to have the responsibility for administration; otherwise the function could not be performed.

Senator HUMPHREY. Just this to complete this interrogation for myself; do you see anything in Reorganization Plan 4 that would give the Secretary of Agriculture any unlimited or any greater authority over the control of the departmental funds than exists under the present situation. When I use the word "control," I mean the right to withhold or to eliminate the use thereof?

Mr. LAWTON. It would give him whatever authority the agencies, three or four of them in the Department, now have for the operation of certain programs. It would give him whatever authority the Administrator of REA would have. Naturally as contemplated by this plan, the Secretary is not going to administer all of these things personally. They will be delegated back to agencies of the Department of Agriculture, and the use of funds to carry out those functions will probably be delegated back just exactly the same way.

In other words, the Secretary is not going to decide in each case the expenditure of funds for a particular function or agency. He will delegate that to the agency of the Department that will administer the function.

Senator HUMPHREY. Thank you.

The CHAIRMAN. Any other questions?

Thank you very much, Mr. Lawton.

Mr. LAWTON. Thank you.

The CHAIRMAN. Our next witness is the Secretary of Agriculture. You may proceed.

STATEMENT OF HON. CHARLES F. BRANNAN, SECRETARY OF AGRICULTURE, UNITED STATES DEPARTMENT OF AGRICULTURE, WASHINGTON, D. C.

Secretary BRANNAN. Mr. Chairman, I appreciate the opportunity of appearing before your committee in opposition to Senate Resolution 263, a resolution of disapproval of Reorganization Plan No. 4 of 1950, which relates to the Department of Agriculture.

We in the Department of Agriculture have as our objective the maintenance of the most effective organization that we can develop to carry out the assigned programs. Reorganization Plan No. 4 will contribute to this same objective. It will permit necessary adjustments, from time to time, to effectively meet changing responsibilities and requirements of the Department.

The plan contains three principal provisions:

1. It provides three additional Assistant Secretaries for the Department, one of whom will be designated as an Administrative Assistant Secretary.

2. There are transferred to the Secretary of Agriculture, with certain reservations, those functions of officers of the Department of Agriculture and of agencies and employees of the Department which are not now vested in the Secretary.

3. The Secretary is authorized to make provisions for the performance of the functions of the Department by officers, agencies, or employees of the Department.

These provisions carry out specific recommendations of the Hoover Commission. In its report on the general management of the executive branch, the Hoover Commission stated that—

RECOMMENDATION NO. 14, REPORT ON GENERAL MANAGEMENT [1]

Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.

[1] House Doc. No. 55, 81st Cong., 1st sess.

RECOMMENDATION NO. 18, REPORT ON GENERAL MANAGEMENT

Each department head should determine the organization and be free to amend it.

Such number of Assistant Secretaries (or equivalent officials) as may be necessary with functions assigned by the head of the Department. These officials, being of policy rank, should be appointed by the President and confirmed by the Senate. In addition, there should generally be an Administrative Assistant Secretary who might be appointed solely for administrative duties of a housekeeping and management nature and who would give continuity in top management.

RECOMMENDATION NO. 20, REPORT ON GENERAL MANAGEMENT

We recommend that the department head should be given authority to determine the organization within his department.

PAGE 7, REPORT ON THE DEPARTMENT OF AGRICULTURE [2]

We have urged in our first report that the foundation of good departmental administration is that the Secretary shall have authority from the Congress to organize and control his organization, and that separate authorities to subordinates be eliminated.

RECOMMENDATION NO. 2, REPORT ON THE DEPARTMENT OF AGRICULTURE

We recommend that the present positions of Under Secretary and Assistant Secretary be retained and that an additional Assistant Secretary and an administrative Assistant Secretary be added. These officials should be appointed by the President, by and with the advice and consent of the Senate, with the possible exception of the administrative Assistant Secretary. The duties of these officials in supervision of departmental activities should be assigned by the Secretary.

As you are aware, the number, character, and scope of the duties and responsibilities of the Department since its institution as a separate executive agency have tremendously increased. At the time it was made an executive department in 1889, and one Assistant Secretary provided for, its entire program with few exceptions was based upon the Organic Act of 1862. Between 1900 and 1930 many statutes providing for various agricultural programs were passed vesting additional important responsibilities in the Department. Illustrative of these statutes are the Meat Inspection Act of 1906, the Smith-Lever Extension Act of 1914, commodity exchange legislation beginning in 1922, the Packers and Stockyards Act, 1921, and the Perishable Agricultural Commodities Act in 1930. With the inception of the recovery programs beginning in 1933, and including such major legislation as the Agricultural Adjustment Act of 1933, Congress recognized the Department's increasing responsibility by providing, in 1934, for the office of Under Secretary of Agriculture.

Since 1934 responsibility for many other major programs has been vested in this Department, either by transfer of functions under reorganization authorities or by new basic authorities enacted by the Congress. These have included the Soil Conservation and Domestic Allotment Act, the Sugar Act, the Agricultural Adjustment Act of 1938, as amended by later acts, the crop-insurance program, and the transfer to this Department of the Resettlement Administration (now succeeded by the Farmers Home Administration), the Rural Electrification Administration, the Farm Credit Administration, and the Commodity Credit Corporation. Recently there has been added responsibilities with respect to farm housing and rural telephones.

[2] H. Doc. No. 80, 81st Cong., 1st sess.

I believe it is apparent from the foregoing that there is need for a greater number of ranking policy officers who can assist the Secretary in handling his manifold responsibilities as Secretary of Agriculture. The weight of these duties, coupled with the routine work of the administration of the Department, has created a greater burden than our present staff of only three such officers can properly handle. As a matter of fact, this is the only Department for which only one Assistant Secretary is authorized.

Both the President and the Congress look to the Secretary of Agriculture for the efficient and effective operation of the programs assigned to the Department. In many major program areas, the Congress has recognized this responsibility by assigning the program to the Secretary of Agriculture for administration through appropriate agencies of the Department. Further steps were taken in this direction in Reorganization Plan No. 3 of 1946, which transferred the functions presently administered by the Production and Marketing Administration to the Secretary, and in Reorganization Plan No. 1 of 1947, which vested the functions now being administered by the Agricultural Research Administration in the Secretary. The orders under which these agencies operate at present were issued by the Secretary of Agriculture pursuant to these reorganization plans.

I should like to point out that the major portion of the functions of the Department presently are vested in the Secretary, and are carried out by the agencies of the Department pursuant to delegations from him. There are, however, some areas in which the function is required to be carried out through a specific agency which fitted the situation at the time the action was taken. In some cases subsequent developments may make changes desirable which cannot be taken without action through reorganization plan or through legislation enacted by the Congress. Most of these changes are not of such significance that Congress would wish to lay aside more important duties to give them adequate consideration. In other cases there are at times questions as to whether a specific responsibility rests in the agency or in the Secretary, and there are questions as to the Secretary's power to delegate certain responsibilities to the agencies of the Department. Clarification of these questions is important. The adoption of the proposed plan will make clear that the responsibility rests in the Secretary and at the same time enable him to delegate broad responsibilities to the agencies of the Department.

We in the Department have been giving consideration to action that might be necessary and appropriate in the event Reorganization Plan No. 4 of 1950 becomes effective. As a result, proposed delegations of authority to the agencies of the Department have been drafted which provide that (and here is an example):

> Under the general direction and supervision of the Secretary of Agriculture, the head of each agency of the Department shall direct and supervise the activities of the employees in his agency. The head of any agency is further granted authority to authorize any legal and proper expenditure deemed by him to be necessary to the discharge of the functions assigned to his agency, which is not otherwise provided for or reserved in these regulations. This authority may be redelegated within the agency.

It is also provided that with respect to operating agencies:

> In addition to the authority in paragraph 12 of this chapter, but subject to any reservation of authority contained in the assignment of functions to the individual

agency, the head of each operating agency is hereby delegated authority to take any action, execute any document, and promulgate any rule, regulation, order, or instruction required by law or deemed by him to be necessary and proper to the discharge of the functions assigned to his agency in section 3 hereof. The head of any such agency, consistent with and with due regard to his personal responsibility for the proper discharge of the functions assigned to his agency, may delegate and provide for the redelegation of his authority to appropriate officers and employees of his agency.

The attention of agency heads is also called to their responsibility for coordination of policies and operations with other agencies and for seeing that the work of their agencies is efficiently administered. This delegation, made possible by plan No. 4, will place in the respective agency heads greater responsibility than it has heretofore been possible to give them.

There is need for flexibility in organization, management, and assignment of functions to meet changing responsibilities of the Department. Good organization is simply the best means of getting an assigned job done. As the job changes, as the emphasis shifts, so should the organization change. It is impracticable to obtain legislative action each time changes of this nature are required. However, any Secretary, in making changes, must make into account the viewpoints of interested groups, including the Congress. As I have pointed out, the Secretary now has full responsibility with respect to a major portion of the Department's functions.

Previous witnesses have given much attention to the fact that the proposed plan No. 4 vests responsibility for the organization and administration of the Department in the Secretary. I should like to point out that this opposition is, in fact, opposition to each of the Reorganization Plans 1 through 6 and opposition to the specific recommendations of the Hoover Commission. This recommendation was made in their report on the general management of the executive branch and in the report on the Department of Agriculture. The Commission apparently recognized that it was necessary to place this responsibility where appropriate actions could be taken when and as needed to efficiently and effectively carry out the functions assigned to the Department.

I do not concur in the view that the plan, if adopted, would result in the Congress not having its wishes fully recognized in the administration of Department programs. The Congress would still have the full responsibility for determining the functions that are to be carried out by the Department and making available the funds which in their judgment should be expended on each function. If a function could be carried out more efficiently in another agency of the Department, the Secretary would be able to make a transfer of the function and funds to such other agency. In this way the most appropriate grouping of functions could be attained under the then existing circumstances.

It appears that there is some confusion about the provision of section 5 of the Reorganization Plan No. 4. I understand this section to say that when a function is transferred from one place in the Department to another, related records, property, personnel, and unexpended balances may be transferred along with the function. It would not, in my judgment, be possible under the provision to

transfer funds from one function to another. The Reorganization Act of 1949 provides specifically that—

> Unexpended balances so transferred shall be used only for the purposes for which such appropriation was originally made.

In my opinion there is no possibility of diversion of appropriated funds from one purpose to another by reason of this plan.

As to the specific changes which might be made in the Department under this plan, I believe you gentlemen will realize that needed changes can better be made in an orderly manner, item by item or function by function, than attempting to drastically alter many parts of the Department's organization at the same time.

A committee has been reviewing the Department organization in the light of the recommendations of the Hoover Commission and other current available information. This study is continuing with a view to developing the most effective possible organization for carrying out the Department's activities. It is difficult at this time to indicate just what changes might be made or when would be the most appropriate time for such changes. In some fields in which the Commission indicated greatest need for attention, appropriate action cannot be taken until Reorganization plan No. 4 becomes effective.

Study of the Department's organization will be a continuing problem and adjustments will need to be made from time to time as the programs assigned to the Department require such action. In the meantime, we hope you will permit plan No. 4 to become effective so that the adjustments necessary for efficient operation may be made as the facts warrant from time to time.

The proposed plan will contribute to orderly administration and good management of the Department, which are necessary if the farmers and other people of the Nation are to receive from the Department the service which they expect.

It is for these reasons that I support the Reorganization Plan No. 4 of 1950 and recommend that Senate Resolution 263 not be adopted.

The CHAIRMAN. Mr. Secretary, I presume you are familiar with the general reasons given for opposition to the plan as it has developed during these hearings?

Secretary BRANNAN. I am, and I did try to touch on one or two of those that seemed to me to be of major significance.

The CHAIRMAN. I see that you have. Let us get into the record as near as we can just what is going to result from this plan, if adopted.

For instance, the Hoover Commission made several specific recommendations. Those are not incorporated in the plan itself. They are intended to be covered and are covered, I would assume, by section 1 of the plan in that I think that is broad enough to delegate to you the power to reorganize, if you chose to do so, in line with the Commission's recommendation, and also in my judgment it delegates power to you to reject all of the recommendations if you elected to do so, and devised some other plan. Some are concerned in that they do not know whether the Hoover Commission recommendations will be carried out, and some perhaps are afraid that they will be, and so what we are trying to clear up here, what I would like to get clear, whether we vote for the plan or against the resolution, does the Congress know what is going to happen under it, or are we simply dele-

gating to you as Secretary the power to legislate a plan that will not again be presented to the Congress, but will go in effect without congressional approval. That is what we are confronted with.

Secretary BRANNAN. Mr. Chairman, let us look at it in this fashion. As I understand the recommendations of the Hoover Commission, they were recommendations to the President of the United States. If he wished the Hoover Commission report in its entirety to be put into immediate force and effect as and when Reorganization Order No. 4 became a law, he could say to the Secretary of Agriculture, put the Hoover Commission report in its entirety into force and effect immediately.

The CHAIRMAN. But the Congress cannot say it. That is just what we are talking about. That is the difference.

Secretary BRANNAN. I raise the question in all sincerity as to whether or not the Congress does want to say that. The evidence of yesterday must be convincing that had this committee or the Congress indicated that it was going to put the Hoover Commission report into force and effect in its entirety, almost every person who was up here except probably Dean Rusk, would have been up here opposing it just as vigorously as they are opposing the plan 4 now.

The CHAIRMAN. It is not a question of what they would or would not oppose. The only point I am raising in this is that we are delegating here, we delegated first to the President by the Reorganization Act the power to submit plans. Of course he has always submitted a plan; along with that power and authorization was the surrender of legislative control over it, except by resolution of disapproval. In other words, the President was delegated the legislation subject to a veto by either House of Congress. That is what it really amounted to.

I said yesterday for the record I do not think the President is bound by any interpretation to accept all of the Hoover Commission report or to accept any one of its recommendations. Neither do I think that Congress is bound. Neither do I think you are bound if this power were delegated to you. But what this amounts to, as I see it, is simply now the President submits a plan that is called a plan, but his plan does nothing but delegate power to you to do what Congress delegated to him to do, authorized him to do to submit a plan that we can see, a blueprint, something that Congress can pass upon to know and say, "Yes, that plan we approve," but under this, as I see it, we simply are reredelegating the power to you under this plan, and we have actually no blueprint in front of us to say that it does include all of the Hoover Commission recommendations or does not include any of them or includes a part and leaves out a part. We are just simply redelegating the authority back to you; is that not correct?

Secretary BRANNAN. Mr. Chairman, I do not look on it in that fashion at all. It seemed to me that what the Hoover Commission did first, and what the President askedt the Hoover Commission to do first, was to take a look at the broad composition of government.

The CHAIRMAN. The Congress asked them to do that.

Secretary BRANNAN. Excuse me.

The CHAIRMAN. Congress created the Commission.

Secretary BRANNAN. I am sorry, sir. What I understood was asked of the Commission by whomever asked it was that the Commission take a look at the broad expanse of organization of govern-

ment, and make recommendations concerning basic organizational changes. I think there is some point beyond which the Congress did not intend the Commission to go, and beyond which it would not be possible or feasible for the Commission to go. In the area of whether or not there are agencies or functions within the Department of Agriculture that should be done by another agency of government, that clearly is an operation which cannot be achieved until it is specifically spelled out and the plan is approved by the Congress or not disapproved pursuant to this legislation, but within the management of a particular Department, it seems to me that the Commission recommended that the responsibility for good management should be in the head of that Department. It then said that in the case of various departments we think a good management pattern would be such and such and such. There are many things about the Hoover report which I think the agencies will want to embrace, I think they will want to study them all very carefully.

Pursuant to that we are studying them. We have supplied this committee with a chart indicating in outline the changes within the structure of the Department of Agriculture which would result from putting the recommendations into effect. Mr. Chairman, if I understand this order at all correctly, it gives to the Secretary of Agriculture, and I assume the other five department heads, exactly the same authorities that he now exercises with many of the bureaus and agencies within the department.

For example, this as I understand it would give me no responsibilities or authorities over the Production and Marketing Administration, which I do not now have.

The CHAIRMAN. That is a corporation.

Secretary BRANNAN. No, Production and Marketing Administration, not Commodity Credit Corporation.

The CHAIRMAN. You have all of the powers with reference to it now that this plan would give you?

Secretary BRANNAN. Yes, sir.

The CHAIRMAN. That applies to some others, too.

Secretary BRANNAN. That applies to some others, but now if I wanted to do, and I do want to do it, and I think almost everybody is interested in putting together the field conservation activities of the Production and Marketing Administration and some of the functions of the Soil Conservation Service, it cannot be done without this order. The functions of the Soil Conservation Service are not vested in the Secretary as are those of Production and Marketing Administration. The recommendations of the Hoover Commission report in the field of the credit agencies of the Department could not be followed out without the authorities asked for in this particular reorganization plan.

The CHAIRMAN. It could be followed out in a plan submitted by the President just ordering it done or doing it.

Senator THYE. If I might interrupt for a question before we get away from the arrangement of the field service. The question I have in my mind, and which has worried me somewhat is the broad blanket authority that would be granted. Can you spell out what you intend to do? If you would say specifically in your recommendation what you intended to do in the field, there would be no doubt left in our minds as to what your plan in the future would be. I only

speak for myself as one of the sponsors of the resolution opposing Reorganization Plan No. 4, but one of my objectives was to provide you an opportunity to spell out what your plans are. The resolution does give you the opportunity to appear before the committee here this morning, and if you will be specific as to what you intend to do in reorganization then we would have light upon what your thoughts are, what you would be apt to do if you were given the blanket authority that plan No. 4 calls for. I think the concern of all of us, is for blueprinting of your plans were you given this authority.

Secretary BRANNAN. Would the Senator be kind enough to tell me what he is apprehensive that I might do that he would object to?

Senator THYE. No, no; I could not project myself into your thinking, Secretary. Congress just delegated the authority for a study of the organization of the executive branch, including the Department of Agriculture. Such a study was made. Some recommendations were set forth by the task forces and incorporated into the Hoover Commission plan. Now the President asks for blanket authority to reorganize the Department as the Secretary sees fit. Now we are giving you the opportunity, and are asking you under the blanket authority what you propose to do. How are you going to revamp the functions within your Department? How are you going to consolidate field operations that you have just been talking about? That is the question. I could not project myself into your thinking, because I am not that smart. I could not read your thoughts. I would like to have your expression.

Secretary BRANNAN. I was not asking you to read mine; I was trying to get yours. Let me put this in a practical light. How long in the future must the Secretary of Agriculture or the head of any of the agencies of Government affected by this common provision spell out what he anticipates ought to be done? Maybe we should say tomorrow, maybe I should say here that I would transfer all PMA to Soil Conservation Service, or I would transfer all Soil Conservation Service to PMA, and next time the Congress met, they would take all of the funds away from it, or they would change the function entirely. They would say, "We are going to change the pattern of operating and completely revise the functions, so that they correspond very closely perhaps to the Extension Service or correspond very closely to the Agricultural Research Administration."

If I were to sit down here and spell out word by word what I would do under a reorganization order, it might not be effective and useful to you for any reasonable period of time. That is, I think the inherent element of this order, Mr. Chairman and Senator Thye, is that there is a line somewhere between basic organization and function, all of which is reserved clearly to the Congress and management. Under those orders nobody is able to change a function, to extend a function, to augment it or to detract from it, any more than he could do today, and of course he cannot do that today, and remain responsible to the will of the Congress.

There is a reorganization committee, a subcommittee of the Committee on Agriculture of the House. A study, including organization, is being carried on by the House Appropriation Subcommittee for Agriculture. We have our own organization and internal study committee, going on at this time. The next time we come before the Congress, if we have done something unreasonable and drastic, capri-

cious, or inconsistent with the views of the Congress, it can be rectified forthwith, and immediately. The Congress has not been divested of any authority, I respectfully submit to you, Mr. Chairman, in connection with the Department of Agriculture or the other five agencies.

The CHAIRMAN. Let me ask you one question. Assuming this plan goes into effect on the 23d of May, before this session of Congress adjourns, the Congress passes a law transferring, I mean taking the responsibility for transferring, some function that is now in one agency over to another.

Secretary BRANNAN. Within the Department of Agriculture?

The CHAIRMAN. Within the Department of Agriculture, yes. Congress adjourns. The law goes into effect. After it goes into effect under this broad power and authority you have here under section 1 of this plan, could you not the very next day transfer it back to the same department that Congress had transferred it from?

Secretary BRANNAN. Senator, that is a question of law.

The CHAIRMAN. Not what you do, but do you have that amount of power?

Secretary BRANNAN. No; I am sure we understand that I would not do so, nor do I think any other Secretary would do so.

The CHAIRMAN. I did not say that you would. Here is what I am speaking of. Suppose the Congress and the President, and this is not fantastic, suppose the Congress and the President are in absolute disagreement with where these functions should be performed, and that sometimes happens.

Secretary BRANNAN. That is right.

The CHAIRMAN. All right. But the Congress takes over and says, "All right, we will pass a law here putting it over here in this department or this agency, and have it administered there." If these powers are granted under section 1 to you, the very next day after the law went into effect, if the President says, "I am just not going to have those functions performed over there in that agency; you transfer them back," you have the power, where would you be? You would be on an awful spot, and you would have to do it, would you not?

Secretary BRANNAN. No, sir.

The CHAIRMAN. You would be under obligation to do it if the President told you to. If I stayed Secretary of Agriculture, I would do what the President said exactly.

Secretary BRANNAN. All right, sir, but I do not think that the President would order any official to do an illegal act.

The CHAIRMAN. That would not be illegal. The power is in you. That is the point I am making.

Secretary BRANNAN. I have greater confidence in your ability to write a law that would supersede any previous law, and if the Congress intended to supersede this Reorganization Act, I am sure it could do it.

The CHAIRMAN. It would have to repeal the reorganization plan.

Secretary BRANNAN. No. What if you did pass a law which said we will transfer SCS to PMA, after this went into force and effect, and said in the law any statement in the Reorganization Act or in plan 4 to the contrary notwithstanding?

The CHAIRMAN. We would have to take that action to repeal that act, would we not?

Secretary BRANNAN. You would have to take that action if you wanted to disagree with the management decision of the Secretary of

Agriculture. But, Mr. Chairman, you are in that identical position now. May I read to you seven actions of just as basic a character that have been taken by the Secretary of Agriculture, and if you had disagreed with them, I am sure by a law you could have put them back where they belonged. I am equally sure, Senator, that they would not have been made if some latitude and flexibility to have done these things was not vested in the Secretary of Agriculture. After all, this is an implementing piece of legislation. Its objective is better management. There is nothing about it, in my opinion, and I do not think there was in the heart or the intention of any of the framers to divest anybody of any basic authorities, rights or prerogatives. What they are really doing is putting the heads of the departments, and the Secretary of Agriculture in this case, on the spot to do a better management job, and take away from him the excuse "I can't do that because I don't have the authority." That is the whole thing.

The CHAIRMAN. Where is the inefficiency in your Department now, that you cannot control under your present authority?

Secretary BRANNAN. Mr. Chairman, I do not have power to consolidate the field type of operation with respect to soil-conservation activities, which are now vested in the Agricultural Research Administration, Soil Conservation Service, and the PMA.

Senator THYE. Would you blueprint for us, what you specifically would do with those three divisions or functions within your Department? I think that we would take comfort from your reorganization plan if you would spell out what you intended to do in the field concerning those three functions.

Secretary BRANNAN. I will tell you exactly what I intend to do, and what we have been doing for 6 months. The representatives of those agencies and other members of the Department under the leadership of the Assistant Secretary, and under the leadership of Mr. Minor, who is here with me today, have been studying ways and means of bringing those functions together in a manner which will bring the programs more efficiently to the field, to the point on the land where the function is to be done, will reduce the cost and will actually have less people out there working.

Senator THYE. You see, the President submitted this to Congress on March 13, and we had much time prior to that to study the reorganization recommendations before us, and this is the 3d of May. Mr. Secretary, if you could in some manner specifically state what your thoughts and plans are, how you propose to consolidate, this committee would have some assurance and could then very easily judge what the reaction would be. Possibly they could see fit to give you the blanket authority to bring about such a reorganization, but we do not have anything before us now to look at.

Secretary BRANNAN. Mr. Chairman and Senator Thye, would you wish that in the case of every other management move that we might from time to time, and after our study and after our consultation with the Congress, determine to be in the best interests of good management? Why is it that we must answer the question with respect to SCS and PMA? You know very well if we ever bring that out, if you ever invite the expression of public opinion on that subject, you will never close these hearings during this session of Congress or the next one. There are very strong points of view on both sides.

Senator THYE. I am sure, Mr. Secretary, that there are some specific recommendations insofar as the task force and the Hoover Commission recommendations are concerned, that set forth specific suggestions. You have had all of this before you for a considerable time. Here we are on the 3d day of May and we are just asking you frankly, how do you propose to proceed to reorganize the Department's functions and do you propose to comply with some of the recommendations set forth by the Hoover Commission.

If you could in some manner spell out for us what you propose to do in the field, in the consolidation, to bring about an economy it would be helpful, because after all, we are endeavoring to get economy and we see three additional assistant Secretaries of Agriculture, which we know increases the expense, but we do not get the recommendations of what the field operations will be that will bring the economy. Consequently, Mr. Secretary, if you could blueprint for us some of the specific reorganizations that you have in mind, we would be enlightened and possibly somewhat reassured that we were going to have the economy we all hoped for when the reorganization plans were first conceived. None of us is trying to trip you up or make it embarrassing for you, but we have certain responsibilities to our States that we represent, and we cannot blindly authorize and then have no control after the authorization goes into effect. I would be much comforted if you would tell us, and I just used one example because you mentioned those three functions of field operations. I did not single them out as the only ones to be considered. I might single out some other activities, if you mentioned them in the course of your discussion. I repeat; if you could blueprint for us how you intend to consolidate the operations in the field and what economy you would anticipate from such consolidation, it would give us some light on what you are endeavoring to do.

Secretary BRANNAN. In how many fields does the committee wish to have this sort of work, these management problems, spelled out in detail? This is the kind of a job, Mr. Chairman, upon which my predecessor spent considerable time, upon which he called in experts from outside of the Department and had studies made, and adopted some of the recommendations and did not adopt some of the others, upon which we have been making studies, and if the Chairman orders that a complete detail of reorganization or redistribution of management functions within the Department of Agriculture must be presented to the committee before the 24th, I am afraid you have asked the impossible, and it will put us in a most difficult position.

The CHAIRMAN. I am not going to, and I could not order you if I wanted to, and I am not going to even ask you to do that.

Secretary BRANNAN. If you put approval of the order or rejection of the order on the premise that we must spell out in detail all of the things which are management problems within the Department, before you will approve the order, then, Mr. Chairman, you have put us in a most difficult and unfortunate position, and may I respectfully point out to you, put us in a position which you have not put the other departments of government in.

The CHAIRMAN. All right. Of course, I am not putting anybody in a position. I did not introduce any of these resolutions, but I have the responsibility here to hold the hearings on them. Here is the

thought I want to make. I would not want to be unreasonable. From my standpoint I do not think any member of the committee or Congress would want to. I admit my sympathy is with you. You have a tremendous job, and I am quite certain that you could not and no one else, even if he had been in the Department down there as Secretary much, much longer than you, could come up with every minute detail of reorganization. But I do think that Congress should have before it a plan like this, and with all of the broad authority that is being delegated, some of the basic changes that are going to be made.

You spoke a while ago about if you opened it up here you would never get it settled, because of differences of opinion, but here is the problem that we have, Mr. Secretary. As Members of the Congress, once we delegate this power, and then you put into effect something that is unpopular or those affected by it disapprove, speaking of those three field services that you might reorganize, you are immune in a sense, because you are in the President's Cabinet, you are responsible primarily to him, but we have to go back and account to those folks for our action. They say why did you let it happen. Well, we say we gave the President the power to reorganize, we delegated that power to the Secretary. That is not going to satisfy them. We have to answer to them why we did let it happen or why we do not do something about it. That is what we are concerned with.

I would think so far as I am personally concerned we have some of the basic structure of the reorganization before us to give us a pretty good indication of how the Department is going to be reorganized, that it would be helpful to us.

Secretary BRANNAN. Mr. Chairman, let me just answer the best I can right here and now. I have said that it is my intention, if I am permitted to continue any appreciable length of time as Secretary of Agriculture, to effect a reorganization of our functions at the field level, especially those in which there are areas of overlapping, and one of the apparent areas about which I am sure you get letters from time to time, and we do, is in the area of soil activity. We intend to try to accomplish that.

I say to you most respectfully it had been under study for 2 or 3 years before I became Secretary of Agriculture, and has been very carefully studied in the past year since I have been Secretary. I say to you very frankly that a complete detail of how to move in that field is not yet at our hands, but I do say to you that it would not change a single function that is now being performed, and it would not divert from its purpose any money which the Congress had appropriated. I call your respectful attention to the fact that if it was not what the Congress thought it ought to be, that you can turn around and change it immediately.

The CHAIRMAN. That is true, but the Congress has the same problem that you have, that is why you want all of this authority and probably need much of it, to delegate to subordinates the authority to do certain things and to help you administer it.

Congress has a forty-odd-million dollar Government here to try to look after in every detail so far as legislation and some other aspects are concerned, and the time does not permit us to do all of these things even that a majority of Congress thinks ought to be done sometimes.

Secretary BRANNAN. That is the very reason that the bee should be put on the heads of agencies, and they ought to be put on the spot and given the authority to do a good job. Then if they should not, I think the pressure ought to be on the President to get rid of them, to get them out of there, You will have much support on that one so far as the Department of Agriculture is concerned.

The CHAIRMAN. I think that was the intention of Congress in this reorganization program to create this commission to make a comprehensive study and make recommendations which would not be binding, of course, but which would certainly carry great force and influence, and then power was delegated to the President to make the change, to reorganize, the power to reorganize by plans was delegated to the President, but now what we are confronted with is a plan that applies to all agencies, as you say, that simply redelegates that power to the Secretary of a department, and the Congress, when it adopts this plan or permits it to go into effect, still does not know how the Department is going to be reorganized. We do not know.

Secretary BRANNAN. No, Senator, you do not know in detail.

The CHAIRMAN. We do not have any basic structure.

Secretary BRANNAN. Yes, you do. I have told you that in the one area, which seems to me the most controversial at this time, that we intend to put them together. The minutia and detail by which we intend to accomplish that we have not spelled out for you. I do not think really that the committee or the Congress has either the time or the opportunity to get into such a detailed operation. That is the very essence of it.

Please let me read to you, or cite to you nine plans, nine reorganizations, and that is a bad term. I think it is getting a broad serious connotation here that I do not think is really justified. Management changes are what we are really talking about, and I would like to just read you, for example, some changes which have been made since July 1, 1945. The Production and Marketing Administration was created by consolidation of 14 existing offices and agencies of the Department, bringing together units previously separated and concerned with production, distribution, and regulatory matters.

Somewhat later a reorganization of the Bureau of Agricultural Economics was undertaken, placing specific responsibility in the filed of agricultural estimates, price income and marketing, production economics and farm populations under the Chief of the Bureau of Agricultural Economics.

On another occasion we abolished the Office of Land Use Coordination and the Office of Water Facilities, and those functions were transferred to the Assistant Secretary.

On another occasion, the Division of Meat Inspection was transferred from the Livestock Branch of the Production and Marketing Administration to the Bureau of Animal Industry of the Agricultural Research Administration. It was taken from almost one side of the Department of Agriculture and put clear over in another.

The CHAIRMAN. Were those done by reorganization?

Secretary BRANNAN. No; they were done by the order of the Secretary, pursuant to the identical type of authority which we seek by this order for the balance of the Department.

The Office of Research and Marketing Administrator was established in 1946. The Office was abolished in 1949 and its function transferred to the Agricultural Research Administration.

The Commodity Exchange Authority, established as a separate agency in 1947 was transferred from the Production and Marketing Administration and made a separate agency. So that it would have no interference whatsoever in watching the operations that were going on on the stock exchanges of the country. In other words, they have not all been consolidations. We have broken a few apart.

Federal Crop Insurance was transferred out from the Production and Marketing Administration and set up as a separate agency in 1947, and a special advisory board brought to it.

There was an assignment of over-all responsibility for coordination and supervision of research activities in the Agricultural Research Administrator in 1947.

Just recently we made an assignment of all of the general administrative responsibilities to the present Assistant Secretary.

These things we have done with the identical authorities which we now seek to be extended to four more agencies. That is all there is to it, plus the Assistant Secretaries. I think the opposition which has been expressed here, and I say it respectfully, in some cases is really worrying about something which is hardly apparent and certainly not real.

The CHAIRMAN. Senator Schoeppel.

Senator SCHOEPPEL. This is an important matter we have to pass on, and an important matter from your standpoint, because it affects millions of people, and I have listened with some interest to your explanation here, and I do appreciate the position that you are in, but now I want to say to you quite frankly, how do you think the Hoover Commission studies, the Hoover Commission as such was sold to the people of this country? It was sold by conscientious work on the part of many people who were qualified, who were respected, who had the interest of agriculture at heart, administratively and in many other ways, and they were called together and grouped together for a study.

Secretary BRANNAN. That is right.

Senator SCHOEPPEL. They spent 10 months, much hard work on the part of individuals was put into it for months and months, working together with many of your Department heads and using your experience and records which were available to them, which is as it should be. This committee, the task force came up with certain specific recommendations.

Secretary BRANNAN. Yes, sir.

Senator SCHOEPPEL. The Hoover Commission as a bipartisan body analyzed that and has come forth with certain recommendations. Let me say to you most respectfully and earnestly that that Commission's activity went out over the length and breadth of this land and it carried weight and influence. Here sit members of a committee of the Congress elected by the people who are looking to us to do something about this kind of an over-all suggested reorganization plan.

Secretary BRANNAN. Yes, sir.

Senator SCHOEPPEL. On July 8, 1949, you courteously and frankly and honestly sent a letter to the chairman of this committee which is a part of the record and the public generally is aware of it, those

who read it. You made certain suggestions in your letter. You had certain reservations in there. You made mention of the fact in that letter that you were making further studies. The President sends down 21 plans to this Congress. Sixty days is our deadline, take it or else, at which time they will become effective. People are differing as to those respective 21 plans, and we are conducting hearings as fast as we can. We feel because the folks are looking to us that certainly the President—and do not get me wrong, I am not criticizing that great office or the individual in it, only to the extent that you are an appointee of the President, you are the head of the Department of Agriculture—should have presented some kind of a blueprint or a pattern. I hope you do not take that as too serious criticism. That is the way my constituents look at it. That is the way some high members of your Department feel about it, which now places the responsibility on us to find out what is wrong with the thing.

Here are a number of great farm organizations. They say that the President brings before the Congress merely a skeleton outline with great broad powers vested in you and a fear is expressed as to how far you will go or will not go.

The Hoover Commission task force, and the Hoover Commission recommendations proper received very little, if any, consideration at your hands or at the hands of the President, shall I say, in his recommendation, other than to have broad powers vesting in you.

What is our responsibility, and how far can we go, with this wide open broad grant of authority, in implementing it into a legislative factor and meeting the requirements of conscientious farm groups that are representing hundreds of thousands of farmers who are concerned about what you will or will not do? If we put this into effect, I fear that we are not performing our proper function up here, nor throwing the safeguards around it, not only from their standpoint but from yours, because less than 20 days remain before this plan becomes effective, unless something is done about it. I feel that we should have had some kind of a pattern here to pass upon, other than the way we now find it, which leaves many of us who honestly and earnestly want to do something under the great reorganization plan in a most constructive way, quite at sea. I think you must realize that and we must be aware of our respective positions.

Secretary BRANNAN. Senator Schoeppel, may I say this?

Senator SCHOEPPEL. May I ask you this first? We have probably two alternate courses here. We can either give you the blanket authority and power and hope for the best, or we can reject this plan or the Congress of the United States can have implementing legislation filed before it, some of which is before the Congress at the present time. Congress through its wisdom, in the various committees, holds hearings and tries to bring before us some concrete pattern, which we do not have. Do you not agree with me that there is much basis for apprehension here? This thing has not been done, I feel very strongly about it, especially since we are asked to pass on it with the time limit less than twenty some days away.

Secretary BRANNAN. I know it is improper to answer a question with a question, but may I refer you to the eight or nine reorganizations, if they must be called reorganization steps, I call them administrative improvements, which have been taken in the Department of Agriculture in the past 4 years; was there anything drastic or

unreasonable? Was the Congress embarrassed by any one of those things? Have you ever heard an objection to any one of them from any appreciable source?

Senator SCHOEPPEL. I would have to say to you, Mr. Secretary, that I have not.

Secretary BRANNAN. I would say to you that neither have your fellow Members of Congress, and I say to you that the same group of people who did these, and before I became Secretary, I was in some cases chairman of the committees or a member of the committees which did some of these things, is there any reason to believe now that if you extend the power under which these were done—within a certain scope of activities of the Department of Agriculture, to the balance of the Department of Agriculture—that we are now going to do something of which the Congress would be embarrassed and ashamed and which the Department would and certainly could not be rectified the minute the Congress came back into session?

Senator SCHOEPPEL. I think you are in an altogether different position. The Congress in its wisdom set up the Hoover Commission. That was a creature of Congress. That came about by reason of a demand for better and more efficient administration all the way through governmental lines. Most of the studies that are before us in these blueprints are the result of studies made since many of those very effective measures that you have referred to have been put into force and effect, but the country has been sold on a program of bettering this great Department of yours, and we are now, within a course of a few days asked to pass upon this important reorganization step with practically nothing concrete being given to this committee or to Congress, and certainly to the country. Maybe many folks do have confidence in you. Some do not share that optimistic view. Some of your own people that work in your Department all over the country have come to us, as Members of this Congress and members of this committee, indicating apprehension because no suggestions have been made, no blueprint, no pattern to work toward, so I said that this thing works two ways, and that is the reason why I joined as one of the cosponsors of this resolution, sincerely believing that it ought to be rejected, giving the President and you through him, if you have a plan to bring before this Congress, another suggested plan. If this is not satisfactory, Congress then in its rightful responsibility can pass upon some type of legislation after full hearings, and get it in a position where these various farm groups can analyze it, and out of it all maybe we can have a plan that will be effective.

What difference do a few more months or half a year or three-quarters of a year make if you are going along pretty well in your Department at the present time? What is wrong with that approach?

Secretary BRANNAN. Of course, what is wrong with postponing any action that is in the public welfare? If this is not in the public welfare, it ought to be rejected. Of course, it should. But if it is in the public welfare, then it should be done at the earliest reasonable time, sir. Say I came forward with all of the minutia, pages and pages of it, and laid it out here, and said, "Amen, that is it." Does that freeze it for 6 months? Does it freeze it for 6 years? Does it freeze it at all? There must be dynamics and flexibility and life in management problems, and I am sure the Congress did not intend that it would freeze itself or ask the Departments to freeze themselves to a

specific pattern by making them lay out in front of them, any little old reorganization or administrative or management change which we propose.

If you start at the bottom, where do you end, where do you cut off? I say to you, Senator, we are doing these things all of the time right now in the Department of Agriculture, but there are certain areas in which we are not able to do them, and which are the areas in which we are getting the most pressure. All that this reorganization plan asks is that you extend the present authorities of the Secretary to the balance of the functions for which he is now responsible. That is all the reorganization plan says, in addition to the Assistant Secretaries.

May I say one other thing. You put great emphasis upon the Hoover report, and I have a tremendous respect for the Hoover report. We were permitted to give our views to the task force but, sir, are you prepared to tell me that you think the task force is the thing to accept as was recommended here yesterday? Or should we follow the full Commission's report? I assure you, sir, if we followed the full Commission's report, from the testimony given here, I do not know quite what will break loose, but all kinds of pressure will come in from Mr. Goss, for example, if you touch the Farm Credit Administration. Should we lay out a plan here with respect to the farm credit agencies of the Department? If you invite the rest of the people to testify about it, I do not know when your hearings will ever end.

It seems to me somebody has got to take some responsibility and stand or fall.

Senator SCHOEPPEL. I agree with you.

Secretary BRANNAN. I am willing to take that responsibility, and as Secretary of Agriculture stand or fall upon the effectiveness of the program of management that we carry out.

Senator SCHOEPPEL. I would be most delighted if somebody had taken the responsibility to come in here with a plan that would have given us some blueprint, at least, to follow and pass upon, which we do not have now.

Secretary BRANNAN. I have given you nine of them.

Senator SCHOEPPEL. Today.

Secretary BRANNAN. That we put into force and effect.

Senator SCHOEPPEL. Today, less than 21 days from the time this becomes effective.

Secretary BRANNAN. On how many subjects, now?

Senator SCHOEPPEL. I do not want to argue with you, and I hope we will not be construed as arguing with one another.

Secretary BRANNAN. I believe you are saying this, Senator, that we ought to tell you everything we are going to do before you give us the power to do it. I ask you on how many subjects.

Senator SCHOEPPEL. No, Mr. Secretary, I do not subscribe to that view or to that theory, and I do not think that there is a man sitting in the Congress here who is so unreasonable as to assume that you have to spell everything out.

Secretary BRANNAN. Senator Thye asked me to spell out how much I would save by it.

Senator SCHOEPPEL. That may be a very pertinent question, because under the reorganization of the Government, the saving of

funds and of taxpayers' money is very important. The people are getting pretty curious about it now.

Secretary BRANNAN. All right. I have already said that to you that the changes will save money. But you now say you must tell me how it saves money, who do you fire, what job do you abolish, what job do you retain, what function do you put here, what function do you put there, and if anybody is going to tell you how he saves money, that is the kind of detail you are asking for, sir. That is what goes into the budget when we try to tell you that it costs this much to run a program, and that much to do something else.

Senator SCHOEPPEL. I do not agree with you that the Congress needs anything like that in that kind of detail, but here is a detail that came down from the Hoover Commission with a suggested chart of organization. Everybody for some unforeseen reason, fear or otherwise, has shied away from it. That may be good; that may be bad; I do not know. But certainly in the President's plan here, we do not have a suggested plan before us, and I think that is what is giving concern all over the country. This concern comes from the people who are interested in agriculture, what this thing will develop into, how is it going to affect everybody. There is not one single item brought forward here, in the face of the publicity that the Hoover Commission report received concerning prospective plans for reorganization. Everybody now stays away from it, including the President. Up to now you have not come forward with any broad outline of four or five specific points to start building on. That is what scares me.

Secretary BRANNAN. In the reorganization plan which was recommended by the Hoover Commission, is an Agricultural Credit Service. Is it your recommendation that we put that into force and effect as is? If you do, then you will not pay any attention to Albert Goss whose representative testified here that nothing should be done with these agencies to put them together. You can put your finger on almost any one of those changes and you are in the same kind of a problem. It seems to me that goes back to the fundamental distinction between the executive and the legislative branches of Government with the full checks and balances. It is not as though I can set up or any Secretary can set up in the Department of Agriculture a pattern of management which is impervious to attack. You can attack it the day it is put in if you are in session, and you can attack it the day you come back into session after it is put in, and you can change it in its entirety.

I respectfully submit that is my opinion, Mr. Chairman, on the question you and I were discussing some time earlier. I do think we are extremely overemphasizing what takes place here beyond the Assistant Secretaries. All that is taking place is a small expansion of functions of the very type we have now, and which we are now operating. Sure, it is not going to please anybody and everybody.

Senator SCHOEPPEL. That is correct. I will agree with you. That is apparent now.

Secretary BRANNAN. That is very apparent, and none of them will.

The CHAIRMAN. Do you have any questions, Senator Mundt?

Senator MUNDT. I would like to ask a question that may have been covered. When I left Senator Thye was interrogating the Secretary about some of the details of the plan of his reorganization program, and you were discussing a phase of it which is of vital

interest to South Dakota, that is, soil conservation and PMA. I do not know whether you dilated on your plan as to how that was going to be handled under the reorganization concept or not. If not, I would appreciate it if you would, if you could.

Secretary BRANNAN. Well, Senator, I do not know whether this will satisfy you. I am not sure it satisfied Senator Thye. I have stated that it is the intention that there have been studies going on to that end for a considerable length of time to consolidate as efficiently and effectively as possible the so-called soils functions of the Department. Some of them are vested in PMA, some are vested in the Soil Conservation Service, some of them are in the Agricultural Research Administration, and there is of course the Cooperative Extension Service carrying the educational load all of the time.

I think there is need for some changes. I think there is the possibility for considerable saving of funds, perhaps have fewer people in rural areas visiting farmers, and an increase in efficiency. I am not prepared to say to you today, for example, that the function of regional conservator would be abolished or not abolished. I am not prepared to say that it would be most efficient to have the so-called PMA county committeemen do a certain function or not do a certain function. It seems to me those are the detailed management plans which if they were elaborated upon and laid out would take a considerable length of time, and which under the division of responsibilities between the administrative and legislative branches lie on the administrative side, subject to the checks and balances which are vested in the legislative branch.

Senator MUNDT. Let me ask you this: Is there anything in the present law which necessitates the duplication that has been occurring out there? In my State both the Soil Conservation Service and the PMA are doing a constructive piece of work and have rightfully earned a considerable degree of public acceptance, but there is general dissatisfaction on the part of the public, on the part of the Soil Conservation people and on the part of PMA because of the confusion and duplication which apparently exists. In some areas you will see two different offices and two different windows both saying "Enter here for soil-conservation counsel and advice." It confuses everybody, including the people in it. Is there something in the present law that makes it necessary to have that duplication?

Secretary BRANNAN. Yes, sir; and this Reorganization Act gives the Secretary of Agriculture the authority to do something about it. He does not now have it. The authorities run to the Chief of the Soil Conservation Service and the Secretary of Agriculture is without authority to change them.

Senator MUNDT. You say you are unable to give us any detailed program on how you would eliminate this confusion and duplication. Do you have plans of doing something with this problem? Is it contemplated doing something with this problem?

Secretary BRANNAN. If the committee or you care to come to my office, we could show you charts about the size of those that are on the walls here now of five different approaches to this subject. I know, and you know, and Senator Thye knows, that this is one of the toughest problems, in its broad implications, that we have to deal with. It is not with any zest that anybody attacks the problem because you know very well that one group at least is not going to be

satisfied, probably two, and there is the real possibility when you get done you are not going to make any one of the three groups happy, but that is not the criterion, making people happy. The criterion is the most efficient type of operation that we can put together, and that is our intention, and effort, and toward that end we have been working. If I should have been able to have completed this job before the approval of the reorganization plan, then I am just sorry. I would say to you that no reorganization plan of this character will go for a considerable length of time, if we must spell out each and every one of those details so that it can pass. Before we get through with that, there are three or four other problems, and if you are going to postpone our authority to deal with them until you know what we will do with each one of them, it will be a long time before you ever pass a reorganization plan for the Department of Agriculture, because there are some others which are almost as difficult as this.

The Department is a large, sprawling agency which has grown up considerably in the last 10 or 12 years and it has been difficult to keep the management problems abreast of all of the functional operations and the changes in functional operations that come with throwing our whole effort into a war, and then bringing it back out of a war.

Senator MUNDT. One other question: The Hoover Commission program was built on two pillars, one to increase the efficiency of the Government, the other to provide greater economy. As I have followed your testimony this morning, it has dealt almost exclusively with one of the pillars—efficiency. The President said in his message to us that he was not prepared to indicate how much, if any, economy would eventuate from the program.

You have been dealing with it down at the working level. Perhaps you are in position to make some kind of conjecture at least as to how much, if any, economy would accrue from it. If so, I would like to hear you.

Secretary BRANNAN. I would say to you if you will accept the phraseology that appreciable economies can be effected, appreciable administrative economies, and I think the efficiencies themselves will reflect genuine economies in terms of more accomplishment per dollar spent. There are two ways in which we will reflect efficiency.

Senator MUNDT. Do you want to take a jump at a conjecture from the standpoint of percentage? You probably could not do it in terms of dollars, but would there be a saving of 2 or 3 percent, or anything of that kind, or more than that, or less than that?

Secretary BRANNAN. I would rather not, because I think it would be a purely speculative figure.

Senator MUNDT. You are pretty well satisfied there will be some substantial economies?

Secretary BRANNAN. On the basis of our studies, I am well satisfied there will be.

Senator MUNDT. That is all.

The CHAIRMAN. Thank you very much, Mr. Secretary.

Secretary BRANNAN. Thank you.

The CHAIRMAN. So far as I know, that should conclude our hearings, except for Senator Schoeppel. Do you desire to make a statement?

Senator SCHOEPPEL. I might say to you that I believe I shall just file a statement, if it is all right with the committee, and ask that it be incorporated in the record at this point.

The CHAIRMAN. Yes, sir; that may be done.

Senator SCHOEPPEL. I have received a number of telegrams, especially one from Herman Praeger, who is the president of the Kansas Farm Bureau of the State of Kansas. The latter I should like to have incorporated in the record.

The CHAIRMAN. They may be placed in the record.

(The statement and telegram referred to follow:)

STATEMENT BY HON. ANDREW F. SCHOEPPEL, A UNITED STATES SENATOR FROM THE STATE OF KANSAS

It is my belief that plan 4 ought to be rejected by the Congress at this time for the following reasons:

1. Adoption of plan 4 now might well forestall the type of sound, money-saving reorganization which the Hoover Commission recommended and which the farm population of the United States will endorse.

2. Plan 4 is opposed by the major farm groups of the Nation which are fearful of the piecemeal and arbitrary character of the plan 4 approach to reorganization.

3. Plan 4 delivers to the Secretary of Agriculture an authority and power not coupled with a clear directive to do a real and responsible job of reorganizing his Department.

4. Plan 4 removes from subordinates in the Department responsibility spelled out in legislative act without vesting such specific responsibility and instructions in the Department head.

Let us look at some of the difficulties of the plan 4 approach to reorganization.

Plan 4 vests new powers in the Secretary of Agriculture but it offers neither assurance nor promise that such powers will be used to effect greater efficiency, better service to the farmer, or more economy to the taxpayer.

The expressed attitude of the present Secretary, reflected in his public utterances on the recommendations of the Hoover Commission, gives no indication that the passage of plan 4 will further the cause of reorganization of the Department along practical lines as set forth by the Hoover Commission or the task force.

To be effective in carrying out Commission suggestions, plan 4 must be accompanied by a strong desire by the Secretary to put his Department in order; or else it must have a clear record of congressional intent to give it effectiveness. Passage of plan 4 now assures neither of these forces for departmental reform.

Plan 4, in and of itself, does not save the American people one dime. Indeed, it authorizes new employment of an administrative assistant secretary and two assistant secretaries. (Only one was recommended by the Hoover Commission.)

Plan 4, in and of itself, assures no better service to the farmer. None of the specific suggestions of the Hoover Commission for departmental reform are spelled out.

Plan 4, in and of itself, would let the Secretary of Agriculture write his own ticket in the Department. There is nothing in the record to indicate that he would use his new authority to affect a streamlining of the sprawling bureaucracy which the Hoover Commission task force has described.

What would plan 4 bring about?

It would transfer to the Secretary of Agriculture "all functions of all other officers of (the Department) and all functions of all agencies and employees of such Department."

Specifically exempted from this sweeping language are the corporations of the Department, the advisory board of the Commodity Credit Corporation and the hearing examiners of the Department.

It is claimed by the proponents of plan 4 that it is partial implementation of the recommendations of the Hoover Commission.

With full emphasis on the partial, such a claim is true only in a very technical sense. The Commission does recommend clear lines of authority from the President down through his department heads.

But in this plan 4 approach to reorganization, the sins of omission are of greater consequence than the Commission suggestions that would be acted upon.

There is nothing in plan 4 that treats directly the general findings of the Commission which I summarize briefly for its high lights:

"In the last 20 years the Department of Agriculture has expanded from about 22,000 employees to over 82,000. Its expenditures during this period have increased from $25,000,000 to over $834,000,000. Instead of a well-integrated, efficient organization, the Commission found a loose confederation of independent

bureaus and agencies with authority diffused among 20 different offices which report directly to the Secretary. The Commission found wasteful duplication of effort and irritating policy conflicts within the Department, between the Department and State and county farm services, and between the Department and other Federal agencies.

"EXAMPLES

"(1) Ten field services of the Department of Agriculture, with a multitude of county advisory committees, work at the county level. By setting up one advisory committee in each county, the Government could save about $4,300,000 per annum.

"(2) In one Georgia cotton-producing county, the Commission found 47 employees attached to 7 separate field services of the Department working with only 1,500 farmers. A fruit and grazing county in the State of Washington had 184 employees of separate field services working with 6,700 farmers. A Maryland dairy county had 88 Department employees working with less than 3,400 farmers.

"(3) A Missouri farmer received varying advice on the application of fertilizer from five different agencies.

"(4) Thirteen farm credit agencies, four of which are in liquidation, have 3.5 billion dollars on loan, and lending authorizations of nearly $7,000,000,000. Simplification of this unwieldy agricultural credit structure would save $36,000,000 a year in administrative costs alone.

"(5) Producers, manufacturers, and retailers of food and drugs are hopelessly confused by conflicting regulations of the Department of Agriculture, the Federal Security Agency, and the Federal Trade Commission. Although the requirements for labeling and advertising of foods and drugs should be almost identical, labeling is regulated by the Federal Security Agency and advertising by the Federal Trade Commission. A disinfectant may be subject to diverse regulations of the Federal Security Agency and the Department of Agriculture.

"(6) Ranchers who run livestock on both national-forest pastures and public grazing lands must obtain spearate permits with different terms and conditions from agencies of both the Agriculture and Interior Departments.

"(7) Two sets of regional and local forest officers representing the Agriculture and Interior Departments carry on conflicting and duplicating activities on intermingled or adjacent timberland.

"MAJOR RECOMMENDATIONS

"(1) The organization of the Department should be thoroughly overhauled at the Department, State, county, and farmer levels to eliminate costly duplication of effort and existing conflicts in policy.

"(2) Regulatory functions relating to food products should be transferred to the Department. Regulation of drugs should be the function of a proposed public-health agency.

"(3) Major land agencies should be grouped in the Department of Agriculture."

Plan 4 gives no answer to the problems which the Commission raises. The net effect of plan 4 would be to strengthen the position of the present Secretary, although he is clear in his opposition to many phases of the sound reorganization program advocated by the Commission after much careful consideration.

On July 8, 1949, the Secretary of Agriculture addressed a letter to the chairman of this committee setting out his views on the recommendations of the Hoover Commission. The letter was introduced into the Congressional Record of July 12, 1949, and appears on page 9466.

In stating his views, the Secretary gave unqualified endorsement to the creation of new, top-level positions in the Department. The remainder of the letter was opposed to, or noncommittal concerning, all other recommendations.

Certainly no expression of opinion contained in that letter warrants giving to the Secretary at this time the considerable authority inherent in plan 4.

A far wiser course, I am sure, would commend the rejection of plan 4 at this time.

If it be allowed me to suggest a course of action to this committee, I would propose the rejection of plan 4 and the undertaking of hearings on S. 2055, which was introduced by Senator McCarthy and prepared, I believe, by the Citizens Committee to effect some of the major recommendations of the Commission. Or the approach as set forth in the statement of seven members of the task force as follows:

"In order to strengthen the hands of the Secretary in dealing with reorganization of vested interests, safeguard the basic principles set forth in section 2 (a)

of the Reorganization Act of 1949, and assure that insofar as possible under existing laws the Commission's recommendations will be adhered to, we recommend that Congress return Reorganization Plan No. 4 of 1950 to the President with the suggestion that he resubmit it after adding to section 2 the following sentence: 'In carrying out the provisions of this section, the Secretary shall be guided by the purposes expressed in section 2 (a) of the Reorganization Act of 1949 and by the plan of organization proposed for the Department of Agriculture by the Commission on Organization of the Executive Branch of the Government.' "

The Secretary of Agriculture concluded his letter to this committee last July with the following statement:

"I would be glad to communicate with you further when I have our studies of the Department's organization more complete."

In fairness to the Secretary and the American people, no major step should be taken to give increased power to the Secretary until he has had a chance to communicate to this committee his proposals for reorganizing his Department.

I do not hold that the Hoover recommendations are the last and final word on organization of the Department of Agriculture. They do offer a definite and reasonable pattern for the discussion of Congress and the Executive in seeking better order.

It may be that the Secretary can offer alternate proposals which will result in better service and greater economy than those offered by the Commission.

My argument here today is that the Secretary should have an opportunity to spell out for the Congress the action he proposes for putting his Department in order.

My plea is that the Congress shall not increase the power of the Secretary to effect reorganization until such time as it has heard and considered fully the reorganization which the Secretary plans to accomplish. If he is going to follow the Hoover recommendations, the Congress should be assured of that fact. If he is going to reject most of the Commission's suggestions, then he should spell out the course which he intends to pursue.

I am opposed to the plan 4 approach to reorganization of the Department of Agriculture because it is vague in its instructions and dangerous in its vagueness.

I want this Congress to do more than to authorize new positions and to increase the powers of the Secretary for good or for ill. I want this Congress to take positive action that will guarantee a constructive effort to reorganization along the lines suggested by the Hoover Commission. As I read the letters of hundreds of my constituents, I gather that they desire the same end.

Reorganization ought not to be attacked in a piecemeal, half-hearted manner. We should take action that will assure sound reorganization now and provide an efficient and economical basis for future operation. A job half done or poorly done at this time is worse than no action at all.

Senator Clinton P. Anderson, former Secretary of Agriculture, has made these pertinent remarks concerning reorganization of the Department:

"What, to me, is important is that we decide to press for a pattern of simplification in the Department of Agriculture. When we examine the committee's study of that Department, we observe that any activity heretofore carried on, now being conducted or needed in the future will fit into that pattern under one of the eight units. It permits the Department to care for new developments in an orderly manner.

"If there is no such pattern and a new law such as the Research and Marketing Act is passed, there is no place for the action agency and a reorganization is indicated. Reorganizations are bad, even if required. Employees become worried about their jobs. Morale is at a low point for months.

"The pattern proposed for the Department should make unnecessary any sweeping reorganizations in the future. There will be adjustments, yes—maybe some adjustment every year—but there will not need to be any more basic changes. Assurance that permanence of that nature could be given to the structure of the Department would be helpful to those who administer its programs as well as those who work far down the line in its services and agencies." [1]

For the reasons that I have outlined here this morning, I hope the committee will vote favorably on the resolution to reject plan 4 and will undertake hearings on S. 2055.

We should act in this matter with knowledge of what we are doing and with reasonable assurance of the ultimate success of our efforts.

There is no such knowledge or assurance in the plan 4 approach.

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[1] Speech delivered at the National Reorganization Conference, Washington, D. C., December 12–13, 1949, published by Citizens Committee for the Hoover Report, p. 12.

MANHATTAN, KANS., *May 1, 1950.*

Senator ANDREW SCHOEPPEL,
United States Senate Office Building.

Heartily approve your resolution taking return Reorganization Plan 4 to President. Believe plan 4 leaves too much to discretion of Secretary. It does not give clear directive for effecting functional reorganization as outlined in Hoover report, and omits important recommendations of that report.

HERMAN PRAEGER, *Kansas Farm Bureau.*

The CHAIRMAN. I will submit for the record here a letter from the South Carolina Farm Bureau, signed by Mr. Agnew as president, which sets out the general objections of that organization to the plan, and I will ask that the letter be printed in the record, and I will ask that the names of the other States where telegrams have been received or messages have been received from the president or from the Farm Bureau organizations of the other States, that the States be named. We will not set out all of the messages, but they concur generally in the views expressed by the president of the South Carolina Farm Bureau Federation.

That includes your statement, Senator Schoeppel.

Senator SCHOEPPEL. Thank you.

Senator THYE. I know that I have on my desk a great number of telegrams and letters that I have received from those objecting to Reorganization Plan No. 4. I did not ask to have those inserted because they come from different States in the Union. I presume other Senators have received similar telegrams.

The CHAIRMAN. Yes, we received, and each Senator will receive them individually, of course, but I did not think it advisable to have every message printed in the record. We can refer to the States the telegrams and letters came from.

(The letter referred to follows:)

SOUTH CAROLINA FARM BUREAU, INC.,
Anderson, S. C., April 29, 1950.

Senator JOHN L. MCCLELLAN,
Chairman, Senate Committee on Expenditures in Executive Departments,
Washington, D. C.

DEAR SENATOR MCCLELLAN: A careful study of Reorganization Plan No. 4 and Statement of the Task Force on Agriculture, dated April 7, 1950, and transmitted to you by letter of same date and signed by Dean H. P. Rusk, Chairman, seems to us to indicate clearly sufficient and sound reasons for rejecting the plan as submitted by the President of the United States and referred to your committee on March 13, 1950.

To state the case briefly as to basic reasons for rejection, the following points are respectfully made or reiterated:

1. From within any department no satisfactory reorganization is likely to be developed or put into operation. The Secretary is not apt to get results unless specifically directed by the President and Congress to conform to certain procedure. The President is not apt to so direct unless Congress insists.

2. "Section 2 (a) of the Reorganization Act of 1949 is a declaration of the purposes of reorganization rather than a plan or a guide for reorganization." Obviously, the Secretary should be given reasonable leeway in effecting the purposes; but he should also be required to follow a clearly delineated course of action.

3. "It is no reflection upon the motives or ability of the Secretary to say that the absence of more specific directives places him in a very weak position with regard to vested interests in the Department."

4. Rejection of the proposed Reorganization Plan No. 4 as submitted by the President will afford an opportunity for later formulation of specific directives which are obviously necessary if desired results are to be expected.

The South Carolina Farm Bureau Federation respectfully requests that your committee report unfavorably and diligently pursue a course that will assist in

acceptance by the Senate of the resolution introduced by Senators Holland, Schoeppel, Johnston (South Carolina), and Thye.

It is our considered opinion that it is preferable to delay reorganization of the Department of Agriculture than to attempt such reorganization under a weak plan that promises reorganization in name only.

Respectfully yours,

E. H. AGNEW, *President.*

(The list of state Farm Bureau Federations follows:)

Alabama
California
Connecticut
Georgia
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New York
North Dakota
Oklahoma
Oregon
South Dakota
Tennessee
Texas
Vermont
Washington
West Virginia
Wisconsin

Senator THYE. That was the reason I did not offer for the record the letters and telegrams that I received.

The CHAIRMAN. Mr. Secretary, do we have anything else now that ought to be included in the record?

Mr. REYNOLDS. No, sir. That is all so far as we know.

The CHAIRMAN. This concludes the hearings on Resolution 263, plan No. 4. On Monday, we will begin hearings on Senate Resolution 265, disapproving Reorganization Plan No. 21, dealing with the United States Maritime Commission.

In the meantime, I might say to members of the committee, a situation may develop where it will be necessary for us to hold an executive session. I was hoping that we could dispose of all of the hearings and then have an executive session and act on all of them.

The committee stands adjourned.

(At 12:15 p. m., the committee was adjourned.)

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Calendar No. 1576

81st Congress, 2d Session | SENATE | Report No. 1566

REORGANIZATION PLAN NO. 4 OF 1950, PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF AGRICULTURE

MAY 16 (legislative day, MARCH 29), 1950.—Ordered to be printed

Mr. McCLELLAN, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

together with the

MINORITY VIEWS

[To accompany S. Res. 263]

The Committee on Expenditures in the Executive Departments, to whom was referred Senate Resolution 263, expressing disapproval of Reorganization Plan No. 4 of 1950, reports favorably thereon, and recommends that the resolution be approved by the Senate. The effect of the adoption of the resolution will be to prevent Reorganization Plan No. 4 of 1950 from becoming effective.

Under the provisions of the Reorganization Act of 1949, approved June 20, 1949 (Public Law 109, 81st Cong.), this plan will take effect upon the expiration of 60 calendar days of continuous session of Congress after the plan is transmitted, unless by affirmative vote by a majority of the authorized membership of either of the two Houses a resolution of disapproval is passed, stating in substance that that House does not favor the reorganization plan. Because the House of Representatives has been in interrupted session, the following provision of section 6 (b) of the act applies:

> In the computation of the sixty-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

The House of Representatives, with the approval of the Senate, having been in recess from April 6 to April 18, 1950, under authority of House Concurrent Resolution No. 193, the effective date of plan No. 4 will, therefore, be May 24, 1950, unless it is disapproved.

SUMMARY OF COMMITTEE'S FINDINGS

A majority of the committee was opposed to Reorganization Plan No. 4 on the premise that it contains unwarranted delegation of authority to the Secretary of Agriculture on a permanent and continuing basis without restriction or restraint as to how or when it would be exercised.

The Department of Agriculture constitutes one of the most important agencies of the entire Federal Government. It is composed of interrelated offices, bureaus, administrations, services, and corporations, established by statute over a period of 88 years to perform specified services for American farmers and consumers. Its internal structure and operating functions have been clearly defined in enabling legislation.

Reorganization Plan No. 4 authorizes the Secretary to consolidate or abolish long-established components in conformity with any overall national farm program that may be adopted by this or any incoming national administration. It authorizes the Secretary of Agriculture to take actions which would in effect destroy the will of the Congress as expressed in basic legislation setting up the various functions of the Department of Agriculture, and bring the policies of the Department under direct political control of the President.

Under such broad authority the Secretary of Agriculture could transfer important services now performed by traditionally accepted agencies within that Department to other agencies which have his personal sanction.

The Secretary of Agriculture, in his testimony before the committee, indicated that, other than a vague consolidation of certain field services, he could not indicate what reorganization steps will be taken under the authority granted to him in Reorganization Plan No. 4.

The majority of the committee feels that Reorganization Plan No. 4 deals primarily with "matters of substantive policy" which have been established by the Congress after many years of study. It is the opinion of a majority of this committee that to grant the Secretary the powers contained in this plan would mean that the Congress is abjectly surrendering its legislative authority to the Secretary of Agriculture without any indication as to how it will be used and without veto powers over any reorganization effected thereunder. This is not consistent with the accepted policy of government, which vests these functions in the legislative branch of the Government.

In the final analysis, the Congress, if it approves Reorganization Plan No. 4, will be completely surrendering its prerogatives as to the basic policies of the Government in the field of agriculture, and would place the farmers under the complete jurisdiction of the administration in power for whatever political manipulations the present or any future Secretary of Agriculture may be disposed to utilize.

The plan contains no compulsion or mandate to the Secretary that he shall reorganize the Department, nor is there any provision in the plan which would place any limitation on his authority to disrupt one service with which he is not in full accord in favor of another which he might favor. It places in the Secretary a blank check to use or

not in any manner he may desire now and hereafter without advance indications to the Congress as to what action he will take to effect reorganizations either in accord with or opposed to Hoover Commission recommendations.

PROVISION OF PLAN NO. 4 OF 1950

In a special message to Congress accompanying Reorganization Plans Nos. 1 to 13 of 1950, the President outlined the purpose of plans Nos. 1 to 6, inclusive, as follows:

Reorganization Plans Nos. 1 to 6, Relating to Six Executive Departments

Reorganization Plans Nos. 1 to 6, inclusive, relate to the Departments of the Treasury, Justice, the Interior, Agriculture, Commerce, and Labor. With certain exceptions, these plans transfer to the respective department heads the functions of other officers and agencies of the departments. They permit each department head to authorize the functions vested in him to be performed by any officer, agency, or employee of the department. In addition, Administrative Assistant Secretaries are provided for each of the six departments, and additional Assistant Secretaries are authorized for the Department of the Interior and the Department of Agriculture * * *

Through the years the Congress has repeatedly endorsed the policy of holding agency heads fully accountable for all the functions of their agencies. Last year this policy was pursued in the legislation authorizing reorganization of the Department of State and establishing the General Services Administration. A reorganization plan applying this principle to the Post Office Department was likewise approved.

However, in the six departments covered by these plans all functions are not now uniformly vested in the department heads. Some statutory authority is held independently by subordinate officers and agencies. These plans extend fully to the six departments the principles of strengthening departmental management by eliminating the patchwork exceptions that now exist.

Section 1 of Reorganization Plan No. 4 proposes to transfer all of the functions now vested in other officers, employees, and agencies of the Department of Agriculture to the Secretary, except the functions conferred on—

(*a*) Hearing examiners.
(*b*) Corporations.
(*c*) Boards of directors and officers of such corporations.
(*d*) Advisory Board of Commodity Credit Corporation.

Section 2 of the plan authorizes the Secretary of Agriculture to redelegate his responsibility to any officer, employee, or agency within the Department, as he deems appropriate.

Section 3 would authorize the establishment of two additional Assistant Secretaries, who will be appointed by the President by and with advice and consent of the Senate. Section 4 would authorize the establishment of an Office of Administrative Assistant Secretary, to be appointed from the classified civil service at a salary of $14,000 annually.

Section 5 would authorize the Secretary of Agriculture to transfer any of the records, property, personnel, and funds from the present offices and activities to the new offices if and when such functions are transferred by the Secretary, pursuant to the provisions of this plan. (See appendix B, for offices affected.)

Under the provisions of this plan the Secretary of Agriculture could transfer functions from one bureau, office, agency, or administration to another, together with the personnel, records, property, and funds

available and necessary to administer the various programs involved. The administrative responsibility for carrying out the programs would be in the Secretary, with the authority to redelegate any of such functions and activities to any subordinate as he deems appropriate. This delegation of authority and responsibility has been construed to mean that the Secretary could reorganize the Department if and when he chooses, as often as he believes is necessary, or postpone reorganizing the departmental and field service until such time as he deems advisable.

HOOVER COMMISSION RECOMMENDATIONS

Reorganization Plan No. 4 does not transfer any organization units to new locations. It develops only the four following recommendations in Hoover Commission Report No. 1 on General Management which are concerned with centralization of functions and an adequate supervisory staff:

14. Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.

* * * * * * *

16. Department heads must have adequate staff assistance if they are to achieve efficiency and economy in departmental operations.

* * * * * * *

18. Each department head should receive from the Congress administrative authority to organize his department * * *.

* * * * * * *

20. We recommend that the department head should be given authority to determine the organization within his department * * *.

The Commission on Organization of the Executive Branch of the Government submitted 16 recommendations in its report on the Department of Agriculture, designed to bring about better organization, improved management, and more effective administration. The Commission also made specific recommendations in its report on general management, which apply to all departments of the executive branch of the Government.

Reorganization Plan No. 4 is designed to extend "the functional organization of the Department and a better grouping of activities related to major purpose" (recommendation No. 1), and provide additional top-level management assistance (two Assistant Secretaries and an Administrative Assistant Secretary, recommendation No. 2). In this connection it should be noted that the Hoover Commission recommended that one Assistant Secretary be added to the staff whereas this plan provides for establishing two Assistant Secretaries.

The Commission further recommended that the operational functions of the Department of Agriculture be grouped into eight major units, as follows:

1. Staff services.
2. Research services.
3. Extension services.
4. Agricultural resources conservation services.
5. Commodity adjustment services.
6. Regulatory services.
7. Agricultural credit services.
8. Rural electrification service.

An organization chart was prepared and inserted in the Commission's report on the Department of Agriculture (p. 9) showing how the top structure of the departmental service may be reorganized. However, the Commission took the position that the Secretary should be free to change the organization and "assign the duties of the Assistant Secretaries" as he deems advisable.

In addition to the administrative reorganization of the Department of Agriculture, implemented by this plan, the Hoover Commission recommendations not included in this plan, which may be covered in some instances by reorganization plans and in others will require substantive legislation, follow:

(*a*) Overhaul Department organization at State, county, and farmer levels.

(*b*) Organize Department of Agriculture councils in each county.

(*c*) Administer services to individual farmers through offices based on States as units; merge activities at the county level.

(*d*) Establish one State council in each State and one county council in each agricultural county.

(*e*) Establish Federal agricultural research stations only where existing joint Federal-State facilities cannot meet need.

(*f*) Restrict conservation payments to farmers to carry out complete program; cease payments upon completion of program.

(*g*) Operate commodity adjustment programs on a stand-by rather than continuous basis.

(*h*) Charge production and inspection costs for benefit of general public to Federal Government, for benefit of producers or processors to producers or processors.

(*i*) Pay customs receipts now allotted to the Department of Agriculture directly into the Treasury.

(*j*) Authorize the Department to report on justification of irrigation or reclamation projects to the President and Congress.

(*k*) Transfer all Federal regulatory functions relating to food products to the Department of Agriculture.

(*l*) Consolidate the Forest Service, Bureau of Land Management (Interior), and Soil Conservation Service.

(*m*) Transfer Bureau of Land Management (excepting minerals) to the Department of Agriculture.

(*n*) Transfer water development activities except local farm supply from Agriculture to Interior.

HOOVER COMMISSION TASK FORCE OPPOSITION

Seven of eight members of the Hoover Commission task force on agriculture, on which the Commission's recommendations were based, appeared before the committee in strong opposition to Reorganization Plan No. 4. The chairman of the task force, H. P. Rusk, dean of the College of Agriculture of the University of Illinois, stated that the task force in studying the operations of the Department of Agriculture—

soon found that a well-coordinated organization could not be secured by merely shuffling the existing units—

and that Reorganization Plan No. 4—

offers no directive in support of any efforts the Secretary may make toward adoption of the basic administrative grouping of functions recommended by the Commission.

Dean Rusk then pointed out that—

the record of a previous attempt during the years to secure a more effective, economical organization of this and other departments of the executive branch of the Government shows that the absence of specific directives places the Secretary in a very weak position with regard to vested interests in and outside of the Department.

He then concluded:

We, as former members of the agriculture task force, believe that Reorganization Plan No. 4 should be rejected, and that specific directives should be provided by the Congress to effectuate the basic principles and recommendations of the Commission. I am advised that legislation is now being prepared to accomplish this objective * * *.

TESTIMONY ON PLAN NO. 4

At the committee hearings on plan No. 4, held on May 2 and 3, 1950, two witnesses, Frederick J. Lawton, Director of the Bureau of the Budget, and Hon. Charles F. Brannan, Secretary of Agriculture, appeared in opposition to Senate Resolution 263 disapproving Reorganization Plan No. 4. Witnesses in favor of the resolution were Senator Spessard L. Holland of Florida; Senator Edward J. Thye of Minnesota; R. P. Rusk, dean, Illinois State College of Agriculture and former chairman of Hoover Commission task force on agricultural activities; William Rhea Blake, executive vice president, National Cotton Council; R. E. Short, vice president, American Farm Bureau Federation; and J. T. Sanders, legislative counsel, the National Grange.

CONCLUSION

The majority of the committee believes that the basic issues involved in connection with Reorganization Plan No. 4 are vital to the welfare of millions of American farmers and to the people of this Nation; that it behooves the Congress to carefully consider its implications before surrendering such far-reaching powers to the Secretary of Agriculture by permitting the plan to become law. The time element involved through the submission of the reorganization plan is inadequate for proper consideration of all its aspects by the Congress, and should not be acted on summarily in the manner proposed by the President.

The committee recommends, therefore, that Senate Resolution 263 be approved by the Senate, and that any statutory changes in the present structure of the Department of Agriculture should be thoroughly studied by the appropriate policy committees of the Congress in order to fully inform the Members of this body as to how such reorganizations will affect substantive policies established by the Congress before any final action is taken.

This is not a reorganization plan. It is simply a proposal to have Congress delegate all of its legislative authority to the Secretary of Agriculture. It would take away from Congress any authority to pass on organizations within the Department of Agriculture, and

might pave the way for the potential disruption of the entire farm program conceived by the Congress after nearly a century of constant study and development. The risk involved under such a proposal dwarfs any possible improvements that might result from the plan's adoption.

Appendix A

[H. Doc. No. 508, 81st Cong., 2d sess.]

Message From the President of the United States, Transmitting Reorganization Plan No. 4 of 1950 Providing for Reorganizations in the Department of Agriculture

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of Agriculture. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 4 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of two Assistant Secretaries of Agriculture and an Administrative Assistant Secretary of Agriculture. The rate of compensation fixed for these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

Harry S. Truman.

The White House, *March 13, 1950.*

Reorganization Plan No. 4 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF AGRICULTURE

Section 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Agriculture all functions of all other officers of the Department of Agriculture and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Agriculture nor to the functions of the corporations of the Department of Agriculture, of the boards of directors and officers of such corporations, or of the Advisory Board of the Commodity Credit Corporation.

Sec. 2. *Performance of functions of Secretary.*—The Secretary of Agriculture may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Agriculture of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

Sec. 3. *Assistant Secretaries of Agriculture.*—There shall be in the Department of Agriculture two additional Assistant Secretaries of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall perform such duties as the Secretary of Agriculture shall perscribe, and who each shall receive compensation at the rate prescribed by law for Assistant Secretaries of executive departments.

SEC. 4. *Administrative Assistant Secretary.*—There shall be in the Department of Agriculture an Administrative Assistant Secretary of Agriculture, who shall be appointed, with the approval of the President, by the Secretary of Agriculture under the classified civil service, who shall perform such duties as the Secretary of Agriculture shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 5. *Incidental transfers.*—The Secretary of Agriculture may from time to time effect such transfers within the Department of Agriculture of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

APPENDIX B

List of offices, bureaus, and organizational units now established in the Department of Agriculture, together with the legal authority for administering the functions assigned to each office

Office	Responsible official	Statutory authority
1. Staff offices:		
Budget and Finance	Secretary	5 U. S. C. 512.
Personnel		
Information		
Plant and Operations		
Foreign and Agricultural Relations		
Library		
2. Solicitor [1]	Solicitor	5 U. S. C. 518.
3. Bureau of Agricultural Economics	Secretary	7 U. S. C. 411.
4. Agricultural Research Administration	do	Reorganization Plan No. 1 of 1947.
5. Production and Marketing Administration	do	Reorganization Plan No. 3 of 1946.
6. Commodity Exchange Authority	do	7 U. S. C. 1–17.
7. Extension Service	do	7 U. S. C. 342.
8. Forest Service	do	16 U. S. C. 471, 472, and 551.
9. Soil Conservation Service	Chief of Service	16 U. S. C. 590e.
10. Farmers Home Administration [2]	Secretary	7 U. S. C. 1015.
11. Rural Electrification Administration [3]	do	7 U. S. C. 901; Reorganization Plan 2 of 1939.
12. Farm Credit Administration (Federal Intermediate Credit.) (Production Credit Corporation.)	do	Executive Order 6084 under Reorganization Act of 1933.

[1] 5 U. S. C. 518 provides that the legal work of the Department shall be performed under the supervision of the Solicitor. If plan No. 4 becomes effective the Secretary may abolish the Solicitor's office and establish a general counsel or transfer his functions elsewhere in the Department.

[2] Authority is vested in the Secretary. The Administrator is appointed by the President with advice and consent of the Senate. Organization of Farmers Home Administration is fixed by statute.

[3] Authority is vested in the Secretary but it must be administered through the Rural Electrification Administrator.

NOTE.—Hearing examiners, Government corporations (Commodity Credit Corporation, Banks for Cooperatives, Federal Crop Insurance Corporation, Federal Farm Mortgage Corporation, Federal Intermediate Credit Corporation, Federal land banks, and production credit corporations) and the Advisory Board of the Commodity Credit Corporation are not included in this chart because they are specifically excluded from plan No. 4.

MINORITY VIEWS

THE FUNDAMENTAL PRINCIPLES INVOLVED

"The ingredients which constitute energy in the Executive are, first, unity; secondly, duration; thirdly, an adequate provision for its support; fourthly, competent powers. . . .

"This unity may be destroyed in two ways: either by vesting the power in two or more magistrates of equal dignity and authority; or by vesting it ostensibly in one man, subject, in whole or in part, to the control and cooperation of others, in the capacity of counsellors to him. . . .

". . . one of the weightiest objections to a plurality in the Executive, and which lies as much against the last as the first plan, is, that it tends to conceal faults and destroy responsibility. . . .

"It often becomes impossible, amidst mutual accusations, to determine on whom the blame or the punishment of a pernicious measure, or series of pernicious measures, ought really to fall. It is shifted from one to another with so much dexterity, and under such plausible appearances, that the public opinion is left in suspense about the real author."

These words were first published on March 18, 1788. They were written by Alexander Hamilton, author of No. 70 of that remarkable series of papers known as the Federalist—a series written to explain the fundamentals of our present system of Government as embodied in what is now our Constitution.

One hundred and sixty years later the Commission on Organization of the Executive Branch of the Government (the Hoover Commission), in its studies, found in effect that economy and efficiency in the executive branch were lacking directly in proportion to the degree to which its organization was dispersed and authorities scattered—constituting a departure from the basic structure which is necessary to make our total governmental pattern function most effectively and most responsibly. To remedy this situation—to restore the executive branch to a condition in which it will function most economically and effectively and at the same time to make it more accountable to the people and the Congress—the Hoover Commission recommended the establishment of a clear line of responsibility from the President down through his department heads and the granting of correlative authority to the President and the department heads. To quote the Commission:

> The President, and under him his chief lieutenants, the department heads, must be held responsible and accountable to the people and the Congress for the conduct of the executive branch.[1]

Indeed, the Commission stated:

> To remedy this situation [diffused authority, confused lines of authority and insufficient staff services] is the first and essential step in the search for efficiency and economy in the executive branch of the Federal Government.[2]

[1] H. Doc. No. 55, 81st Cong., 1st sess., p. 1.
[2] Ibid.

The necessity for this basic reform was emphasized time and again by the Commission in each of its reports on each of the executive departments.

No one questions the soundness of the Commission's recommendations in this respect. These recommendations of the Commission are fundamental to efficiency in our constitutional democratic system and go back to its very beginnings, as the extracts from The Federalist above illustrate. It is quite as impossible to quarrel with them as it is to impeach the soundness of our form of government.

No one questions that Reorganization Plans 1 to 6 implement precisely the basic recommendations of the Hoover Commission in regard to departmental management. Nevertheless, two of these six plans, which are all concerned exclusively with departmental management, have received adverse reports after a hearing before this committee. The record makes it clear that the opposition to both of these plans has come from essentially the same background. It was precisely because of this kind of potential opposition to basic reform in the executive structure that the President and the Hoover Commission recommended and the Congress enacted, after the Commission reports had been submitted, the Reorganization Act of 1949 which makes this kind of basic reform possible.

The opponents of basic departmental reform pose as strong advocates of reorganization but—and this is the rub—each particular group testifying in opposition does not wish to have the Secretary wield any more authority over its particular area of concern than that which he now has. To support their special interests, the opponents have come forth with all kinds of pseudo arguments. Some state that the Hoover Commission never specifically mentioned their bureau in the department and, therefore, they argue that they are exempted from the general recommendation for the department as a whole—this in spite of the fact that the Commission's recommendation is specific in its intent and the Commission did not make a practice of naming every activity to which the recommendations were to apply. In other cases, opponents of reorganization find that the functions in which they are especially interested are of a special nature and consequently should not be under the control of the Secretary. There are other forms in which the opposition appears. However, all the arguments against this basic reform are essentially a defense of the privileges of special-interest groups.

This becomes clearer when the impact and consequence of the arguments advanced are considered in the light of the cold facts stripped of confusing irrelevancies. These plans do not give the heads of departments any authority to alter the substantive programs enacted by the Congress. These plans do not propose or compel any specific reorganization. They do not authorize or contemplate any drastic overhaul of organization in the sense that functions can be shifted from one major executive department to another. Such shifts can only be made by a plan transmitted by the President which specifically makes such shifts. These plans do give the Secretary managerial discretion to determine how his department shall be organized for the most efficient conduct of the functions to be performed within the department. The Secretary is authorized to delegate the functions to be performed in his department to subordi-

nate officials in the department. Full responsibility is fixed on the Secretary for the conduct of functions within his department. The people, the Congress, and the President can, under this arrangement, hold the head of the department fully accountable for what transpires under his administration of the laws enacted by the people's representatives. What scheme of organization can be devised which will more greatly facilitate the true functioning of responsible, democratic Government along simple lines that can be understood and watched more easily by everyone? We submit that this is the essence of our system of Government and the goal so admirably high-lighted by the work of the Hoover Commission.

But, of course, such a pattern does not suit the plans of those special interests who are intent on preserving the special administrative status which favors them, which is insulated against the controls and checks inherent in responsible Government, and which is concealed from view by a maze of diffused lines of administrative authority. For what do these special interests contend?—secretaries who are not secretaries, but merely figureheads presiding over the departments they are ostensibly supposed to manage; departments that are not departments, but merely theoretical entities designed to appear on an organization chart as if well grouped and integrated while in reality concealing a host of entrenched, autonomous agencies.

It is this kind of structure that the special-interest pleaders are proposing to conserve. It is easy to see how this will suit their purposes. But it is just as apparent that they do not favor the kind of structure and reorganization recommended by the Hoover Commission.

Poised between the Government and the people, these pleaders for the status quo tell the Congress that the groups they represent are uniformly actuated by narrow views and a desire for preferential treatment. We cannot accept this fallacious thesis and at the same time organize our Government to function most effectively in these critical times. We are seeing the lengthy and diligent exertions of the distinguished members of the Hoover Commission undermined and eroded by the pressure groups, some of whom depend for their very existence not so much on support from the people but on the perpetuation of inefficiency or chaos in government. They have come before this committee sanctimoniously endorsing the principles of the Hoover Commission—but always with reservations as to their own little "bureaucratic empires" in government. Given their way, these Lilliputians could chain our governmental Gulliver wholly to the ground, rendering the executive branch impotent except to serve their own narrow wishes.

ARGUMENTS ADVANCED AGAINST PLAN NO. 4

The arguments advanced against plan No. 4 are individually untenable. Moreover, they are inconsistent and contradictory. There is basic disagreement among the opponents themselves. The principal opposing groups in order of appearance before the committee are (1) the members of the task force on agriculture of the Hoover Commission, (2) the National Grange, (3) the National Council of Farm Cooperatives, (4) the National Cotton Council, and (5) the American Farm Bureau Federation.

A reading of the record of hearings will show, among other things, that the task force on agriculture is in open conflict with its parent body, the Hoover Commission, on Recommendations No. 18 and 20 of the Commission Report on General Management which would be effectuated by this plan;[3] that the National Grange agrees with neither the Hoover Commission nor the task force on the recommendations relating to the Farm Credit Administration; and that the National Council of Farm Cooperatives also disagrees on these recommendations, but for different reasons. Each, by pressing his own pet scheme for reorganizing the Agriculture Department, would bar any reorganization but his own. By opposing plan No. 4, they find themselves in the same camp seeking to assure the maintenance of the status quo.

The following are the shortcomings of plan No. 4 alleged by its opponents:

1. It is alleged that plan No. 4 is "a plan that is not a plan"; that it does not communicate to the Congress the essentials of what will eventually be the reorganization of the Department of Agriculture.

This contention completely misconstrues this plan.

Plan No. 4 seeks to carry out basic recommendations of the Hoover Commission. To reiterate, Recommendation No. 18 states:

> Each department head should receive from the Congress administrative authority to organize his department and to place him in control of its administration.

Recommendation No. 20 states:

> The department head should be given authority to determine the organization within his department. He should be given authority to assign funds appropriated by the Congress for a given purpose to that agency in his department which he believes can best effect the will of Congress.

Plan No. 4 is designedly unspecific. It is a plan for continuing good management in the Department of Agriculture. One of the fundamental theses of the Hoover Commission was that continuing flexibility should characterize the operations of the executive branch. A specific plan would freeze the structure of the Department. It would be a step backward, since most administrative authority is already in the Secretary. Such a plan would be directly contrary to the recommendations of the Hoover Commission. To require a specific reorganization at this time might force untimely reorganization. It would be reorgnaization for the sake of reorganization rather than for the purpose of better management as the need is demonstrated.

The specific ambitions of plan No. 4 are rather modest despite the ominous implications attributed to it by the opposition. It gives to the Secretary the few functions which he does not already possess and specifies that he shall have three assistants. In addition, it gives him continuing authority to reassign functions within the Department. Under plan No. 4 the Secretary has no authority to abolish or create functions.

Plan No. 4 is a result of a long overdue effort to provide a sound basis for efficient and economic departmental management. In 1947 the Congress, in response to a public demand for a better managed Government, established the Hoover Commission. This Commission

[3] Text of Res. 18 and 20.

gave 2 years of study to the organization of the executive branch and reported its findings and recommendations to the Congress. The Congress then enacted the reorganization statute, and the President has transmitted to the Congress plan No. 4 under that act effecting the basic reform in the management of the Department of Agriculture recommended by the Commission. This, in short, is the history of plan No. 4 which is now before us and which is being attacked by the special interest pleaders. To assert that it is "a plan that is not a plan" is to ignore this history and to let short-range arguments interfere with this continuing effort to improve executive branch organization.

2. It is alleged that plan No. 4 bypasses the Reorganization Act of 1949 by granting "carte blanche" to the Secretary to reorganize his Department according to his whim without congressional review as provided by the Reorganization Act; that if the Congress does not disapprove the plan, it will be improperly delegating its duty in regard to the Agriculture Department's organization.

This allegation is without merit.

The Congress, through the years, when enacting basic farm legislation, has in most cases vested functions directly in the Secretary of Agriculture with a minimum of organizational specifications. It has been assumed by the Congress that the Secretary will exercise discretion in the organization and management of his Department. The Secretary of Agriculture has greater freedom today over the organization of his Department than the heads of the other five departments affected by Reorganization Plans Nos. 1, 2, 3, 5, and 6 of 1950.

Testifying before the committee on this point, Director of the Budget Frederick J. Lawton stated:

* * * the Congress itself has from the beginning followed the practice of vesting authority in the Secretary of Agriculture for the performance of almost all functions to be administered within the Department of Agriculture. The Secretary of Agriculture has always enjoyed a more considerable degree of administrative control and discretion than most other department heads. Most of the statutes authorizing agricultural programs and functions vest complete authority in the Secretary.

There are nine major operating units in the Department of Agriculture. This does not include the corporations, whose functions and status are not affected by this plan. Five of the nine major agencies were established by the Secretary pursuant to the authority vested in him by the Congress for the performance of the functions concerned. The functions administered by these agencies are vested almost exclusively in the Secretary but as a matter of good administration have been delegated in the main to subordinate officials. The five agencies created by the Secretary are:

Agricultural Research Administration.
Production and Marketing Administration.
Commodity Exchange Authority.
Extension Service.
Forest Service.

The functions administered by the Soil Conservation Service and the Farmers Home Administration are vested in the Secretary by statute. Soil Conservation Act required the Secretary to establish the Soil Conservation Service to "exercise the powers conferred on him." Similarly the Farmers Home Administration Act contemplated the establishment of the agency of that name. Plan No. 4 would give the Secretary authority, if the need arises, to delegate to other subordinates within the Department responsibility for performance of these functions which are already vested in him by statute. The two remaining agencies—Rural Electrification Administration and Farm Credit Administration—were originally established outside the Department of Agriculture and later transferred by reorganization plan to the Department in 1939. Under plan No. 4 these two agencies would be placed in the same administrative relationship to the Secretary as

the other agencies which I have just enumerated. This plan, therefore, insofar as it affects the internal structure of the Department, merely follows the long-established pattern of vesting administrative authority in the Secretary of Agriculture for the functions to be administered in his Department.

In recent years the Congress has approved reorganization plans vesting functions directly in the Secretary of Agriculture in a manner similar to that proposed in plan No. 4. Examples of this action are Reorganization Plans No. 3 of 1946, and No. 1 of 1947.

REORGANIZATION PLAN NO. 3 OF 1946

PART V. DEPARTMENT OF AGRICULTURE

SECTION 501. *Functions of certain agencies of the Department of Agriculture.*—The following functions are hereby transferred to the Secretary of Agriculture and shall be performed by him or, subject to his discretion and control, by such officers and agencies of the Department of Agriculture as he shall designate:

(a) All functions of the Agricultural Adjustment Administration and the Surplus Marketing Administration and of the respective heads of such Administrations.

(b) The administration of the programs of the Federal Crop Insurance Corporation and the Commodity Credit Corporation.

REORGANIZATION PLAN NO. 1 OF 1947

PART III. DEPARTMENT OF AGRICULTURE

SECTION 301. *Agricultural research functions.*—The functions of the following agencies of the Department of Agriculture, namely, the Bureau of Animal Industry, the Bureau of Dairy Industry, the Bureau of Plant Industry, Soils, and Agricultural Engineering, the Bureau of Entomology and Plant Quarantine, the Bureau of Agricultural and Industrial Chemistry, the Bureau of Human Nutrition and Home Economics, the Office of Experiment Stations, and the Agricultural Research Center, together with the functions of the Agricultural Research Administrator, are transferred to the Secretary of Agriculture and shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he may designate.

The present Congress last year vested in the Secretary of State and the Postmaster General the same authority to reorganize their Departments that plan No. 4 proposes to vest in the Secretary of Agriculture. Section 4 of Public Law 73, Eighty-first Congress, approved May 26, 1949, states:

> The Secretary of State may promulgate such rules and regulations as may be necessary to carry out the functions now or hereafter vested in the Secretary of State or the Department of State, and he may delegate authority to perform any such functions to officers and employees under his direction and supervision.

Section 1 of Reorganization Plan No. 3 of 1949, effective August 20, 1949, states:

Functions of the Postmaster General.—(a) There are hereby transferred to the Postmaster General the functions of all subordinate officers and agencies of the Post Office Department, including the functions of each Assistant Postmaster General, the Purchasing Agent for the Post Office Department, the Comptroller, and the Bureau of Accounts.

(b) The Postmaster General is hereby authorized to delegate to any officer, employee, or agency of the Post Office Department designated by him such of his functions as he deems appropriate.

By approving plan No. 4 the Congress, rather than relinquishing responsibility over the internal management of the Department of Agriculture, will in fact be strengthening its position as overseer and guardian in the public interest of the Department's affairs. The Congress will for the first time have fixed upon one official, the Secretary of Agriculture, the clear and definite responsibility for the

performance of the function of the Department. In this regard, it seems significant that the Secretary of Agriculture, Charles F. Brannan, told our committee in a forthright manner:

> It seems to me somebody has got to take some responsibility and stand or fall.
> Senator SCHOEPPEL. I agree with you.
> Secretary BRANNAN. I am willing to take that responsibility, and as Secretary of Agriculture stand or fall upon the effectiveness of the program of management that we carry out.

Also on this point, Budget Director Lawton stated before the committee:

> The head of each department concerned is responsible to the President for his actions. Responsibility under these plans is more clearly fixed in the Secretary than ever. The Congress can more effectively exercise surveillance and control under these conditions through its powers of investigation, hearing, legislation and appropriation, none of which, of course, can be or should be curtailed under this or any other plan.

3. It is alleged that section 5 of plan No. 4 grants the Secretary a "blank check" over funds of the Department to the extent that he might "abrogate an appropriation act." [4]

Section 5 of plan No. 4 in no respect gives the Secretary of Agriculture a "blank check" over the use of the Department's appropriations.

Section 5 appears in plan No. 4, as in all reorganization plans, because it is required by the Reorganization Act of 1949. Section 4 (4) of the act reads as follows:

> SEC. 4. Any reorganization plan transmitted by the President under section 3—
> (4) shall make a provision for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with any function or agency affected by a reorganization, as he deems necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have such functions after the reorganization plan is effective, but such unexpended balances so transferred shall be used only for the purposes for which such appropriation was originally made;

In making any of the incidental transfers of unexpended balances under section 5 the Secretary is bound by the Reorganization Act to use these funds "only for the purposes for which such appropriation was originally made." There is, therefore, no basis for any charge that the plan grants the Secretary a "blank check." Whatever appropriations the Congress has made or may make will continue with full force under the plan. They can be used for no other purposes than those for which they were authorized by the Congress. The only authority over funds that section 5 gives the Secretary is to transfer moneys from one unit of the Department to another when such transfer is necessary for the performance of a function that is at the same time transferred.

4. It is alleged that plan No. 4 is only good theory, not good practice, since it places reorganization responsibility on the Secretary of Agriculture who will be unable to effectively reorganize.

The statement of the Secretary in the record of the hearing listing a series of successful and generally approved administrative reorganizations refutes this contention.

> Management changes are what we are really talking about, and what I would like to just read you, for example, the Production and Marketing Administration,

[4] SEC. 5. Incidental transfers.—The Secretary of Agriculture may from time to time effect such transfers within the Department of Agriculture of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

these have happened since July 1, 1945, the Production and Marketing Administration was created by consolidation of 14 existing offices and agencies of the Department in August of that year, bringing together units previously separated and concerned with production, distribution, and regulatory matters.

Somewhat later a reorganization of the Bureau of Agricultural Economics was undertaken, placing specific responsibility in the field of agricultural estimates, price income and marketing, production economics and farm populations, all under one head, under the Chief of the Bureau of Agricultural Economics.

On another occasion we abolished the Office of Land Use Coordination and the Office of Water Facilities, and those functions were transferred to the Assistant Secretary.

On another occasion, the Division of Meat Inspection was transferred from the Livestock Branch of the Production and Marketing Administration to the Bureau of Animal Industry of the Agricultural Research Administration. It was taken from almost one side of the Department of Agriculture and put clear over in another.

The CHAIRMAN. Were those done by reorganization?

Secretary BRANNAN. No; they were done by the order of the Secretary, pursuant to the identical type of authority which we seek for the balance of the Department by this order.

The Office of Research and Marketing Administrator, established in 1946, the Office was abolished in 1949 and function transferred to the Agricultural Research Administration.

The Commodity Exchange Authority, established as a separate agency in 1947 was transferred from the Production and Marketing Administration and made a separate agency. So that it would have no interference whatsoever in watching the operations that were going on on the stock exchanges of the country. In other words, they have not all been consolidations. We have broken a few apart.

Federal Crop Insurance was transferred out from the Production and Marketing Administration and set up as a separate agency in 1947, and a special advisory board brought to it.

There was an assignment of over-all responsibility for coordination and supervision of research activities in the Agricultural Research Administrator in 1947. The bureaus, many of them at Beltsville, were operating independently. Just a little ahead of this time, they were most of them brought together and put under one administrator, but some of the functions were still delegated directly from the Congress, and finally under either the 1947 or 1948 reorganization powers which the Congress granted, a further consolidation was set up under Dr. Cardon.

And then just recently we made an assignment of all of the general administrative responsibilities to the present Assistant Secretary.

Opponents of plan No. 4 claim that the Secretary is the captive of strong bureaus within his Department and that their attendant special-interest groups are likely to make it impossible for him to affect the bureaus through any reorganization. As Senator Smith queried during the hearings:

If the Secretary is pressured, what do you think about Congress being pressured?

5. It is alleged that plan No. 4 does not go far enough in that it does not carry out specifically all the recommendations of the Hoover Commission concerning the Department of Agriculture.

This allegation is irrelevant.

Plan No. 4 in itself is not intended to carry out specifically all the recommendations of the Hoover Commission concerning the Department of Agriculture. The purpose of the plan—as well as plans Nos. 1, 2, 3, 5, and 6—is to establish a basis for reorganization of the Department of Agriculture in common with other departments. It makes provision for internal reorganization from time to time when such reorganization is deemed appropriate by the Secretary. The President, in transmitting this plan to the Congress, apparently found that this was more important and forward looking than any attempt to alter the structure of the Department by plan in any specific way at this time. We cannot disagree with the logic of the President's decision on this matter.

The President's approach is not inconsistent with the recommendations of the Hoover Commission, but in fact carries out specifically the following five recommendations of the Commission:

Recommendation No. 14, Report on General Management: [5]

Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.

Recommendation No. 18, Report on General Management:

Each department head should receive from the Congress administrative authority to organize his department and to place him in control of its administration.

Recommendation No. 20, Report on General Management:

We recommend that the department head should be given authority to determine the organization within his department.

Page 7, Report on the Department of Agriculture:[6]

We have urged in our first report that the foundation of good departmental administration is that the Secretary shall have authority from the Congress to organize and control his organization, and that separate authorities to subordinates be eliminated.

Recommendation No. 2, Report on the Department of Agriculture:

We recommend that the present positions of Under Secretary and Assistant Secretary be retained and that an additional Assistant Secretary and an Administrative Assistant Secretary be added. These officials should be appointed by the President, by and with the advice and consent of the Senate, with the possible exception of the Administrative Assistant Secretary. The duties of these officials in supervision of departmental activities should be assigned by the Secretary. * * *

It should be noted that the members of the task force on agriculture, who contend that plan No. 4 should specifically effectuate the recommendations of the Hoover Commission for the establishment of certain bureaus in the Department of Agriculture, are opposed by farm group representatives who contend with equal vigor that certain of the recommendations should not be put into effect. Suffice it to say that the arguments made by both sides are irrelevant to a plan which does not propose either reorganization or make one or the other mandatory.

6. It is stated that presentation of plan No. 4 is untimely because departmental reorganization can only be related to our farm policy which is as yet unformulated.

This argument misconceives the basis and development of our farm policy. In the past two decades, farm policy in the United States has been and will continue to be ever-changing in response to the changing needs of our society. One has only to look at the reorganization record of the Department in past years in those areas in which the Secretary has had authority to transfer functions to see the beneficial effects of that authority. Concerning these reorganizations Secretary Brannan said in testifying before the committee:

The Secretary:

* * * may I refer you to the eight or nine reorganizations, if you must call it reorganization steps, I called them administrative improvements, which have been taken in the Department of Agriculture in the last 4 years; was there anything drastic or unreasonable? Was the Congress embarrassed by any one of these things? Have you ever heard an objection to any one of them from any appreciable source?

[5] H. Doc. No. 55, 81st Cong., 1st sess.
[6] H. Doc. No. 80, 81st Cong., 1st sess.

Senator Schoeppel:

I would have to say to you, Mr. Secretary, that I have not.

Concerning specific adjustments under this continuing power to reorganize, the Secretary said:

* * * if it is in the public welfare, then it should be done at the earliest reasonable time, sir * * * there must be dynamics and flexibility and life in management problems, and I am sure the Congress did not intend that it would freeze itself or ask the departments to freeze themselves to a specific pattern. * * *

The Secretary later continued:

There is need for flexibility in organization, management, and assignment of functions to meet changing responsibilities of the Department. Good organization is simply the best means of getting an assigned job done. As the job changes, as the emphasis shifts, so should the organization change. It is impracticable to obtain legislative action each time changes of this nature are required. However, any Secretary, in making changes, must take into account the viewpoints of interested groups, including the Congress.

Continuing reorganization efforts will be needed to adjust departmental structure to policy as it is formed. One of the major byproducts of these important recommendations of the Commission on Organization will be the reduction of the lag between policy formulation and the readjustments it compels. The Commission envisioned continuing adjustments designed to keep the administrative mechanism of the departments promptly attuned to the needs of the national programs. This was the picture of continuing efficiency and economy which that distinguished Commission projected and which is now being subjected to pressure-group fragmentation.

ADVANTAGES OF PLAN NO. 4

Plan No. 4 will improve and strengthen the efficient management of the Department of Agriculture. The plan will provide the following advantages which are essential to good administration:

1. Plan No. 4 clarifies the structure of the Department by vesting full responsibility and full authority in one official, thereby making the operations of the Department susceptible to greater public scrutiny and making it more fully accountable to the Congress and the President.

2. Plan No. 4, by providing for the transfer of functions by the Secretary, makes it possible for the administrative organization of the Department to be promptly adjusted for the most efficient administration of the farm program as it is enacted by the Congress.

3. Plan No. 4 will give greatly needed assistance to the Secretary in the administration of his Department by providing for the appointment of two additional Assistant Secretaries of Agriculture and an Administrative Assistant Secretary. This improvement is advocated by all who have interested themselves in this plan.

We point out, as an example, one area of the internal affairs of the Department wherein the Secretary may properly employ his authorities under the plan and where, in the absence of this plan, the Secretary is legally unable to take any ameliorative action. This example was discussed in the hearing before our committee. Undoubtedly, there

are other areas in the same category. Plan No. 4 is essential to provide authority for action by the Secretary.

The following colloquy between Secretary Brannan and Senator Mundt of our committee occurred:

Secretary BRANNAN. I have stated that it is the intention that there have been studies going on to that end for a considerable length of time to consolidate as efficiently and effectively as possible the so-called soils functions of the Department. Some of them are vested in PMA, in the Field Services Branch, some are vested in Soil Conservation Service, some of them are in the Agricultural Research Administration, and there is of course the Extension Service carrying out the educational load all of the time.

I think there is need for it. I think there is the possibility for considerable saving of funds, perhaps have fewer people in rural areas visiting farmers, and an increase in efficiency. I am not prepared to say to you today that the function of say regional conservator would be abolished or not abolished. I am not prepared to say that it would be most efficient to have the so-called PMA county committeeman do a certain function or not do a certain function. It seems to me those are the detailed management plans which if they were elaborated upon and laid out would take a considerable length of time, and which under the division of responsibilities between the administrative and legislative branches lie on the administrative side, subject to the checks and balances which are vested in the legislative branch.

Senator MUNDT. Let me ask you this: Is there anything in the present law which necessitates the duplication that has been occurring out there which prevents you from eliminating in my State both the Soil Conservation Service and the PMA are doing a constructive piece of work and have rightfully earned a considerable degree of public acceptance, but there is general dissatisfaction on the part of the public, on the part of the Soil Conservation people and on the part of PMA because of the confusion and duplication which apparently exists; in some areas you will see two different offices and two different windows both saying, "Enter here for soil conservation counsel and advice." It confuses everybody, including the people in it. Is there something in the present law that makes it necessary to have that duplication?

Secretary BRANNAN. Yes, sir, and this Reorganization Act gives the Secretary of Agriculture the authority to do something about it. He does not now have it. The authorities run directly to the Chief of the Soil Conservation Service and the Secretary of Agriculture is without authority to change them.

Likewise, to the extent that there is still legislative language in appropriation bills, the other functions are still vested in Production and Marketing Administration.

This exchange between the Secretary of Agriculture and Senator Mundt reveals a most potent argument for the approval of plan No. 4. Here in the so-called soil functions of the Department there is general agreement that changes should be made. There has been going on in the Department for 3 years a study of what to do about overcoming the present shortcomings. Yet the Secretary lacks authority to effect the necessary changes. Plan No. 4 will give him the authority that he needs. We are convinced the responsibility of Congress to the farmers and the people of the country requires that we authorize the Secretary to make the necessary changes and also to make all similar changes required by circumstances from time to time.

CONCLUSION

Plan No. 4 should be approved. The recommendations of the Hoover Commission for the establishment of a sound basis of departmental management are clear. They have received the endorsement of the President, the Secretary of Agriculture, and the Citizens Committee for the Hoover Report. The advantages of such a reform are

likewise clear. Reorganization Plan No. 4 specifically effectuates the recommendations of the Commission.

The opponents of plan No. 4 stand plainly revealed as pleaders for their own special interests. They are not in favor of sound administrative reform by these basic recommendations of the Commission as they claim. The Commission considered the reform embodied in plan No. 4 "the first and essential step in the search for efficiency and economy in the executive branch of the Federal Government." Let those who are for and against this "first and essential step" stand up and be counted on the real issue unobscured by a smoke screen of pettifoggery.

HUBERT H. HUMPHREY.
EDWARD L. LEAHY.
WILLIAM BENTON.

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Calendar No. 1576

81ST CONGRESS
2D SESSION

S. RES. 263

[Report No. 1566]

IN THE SENATE OF THE UNITED STATES

APRIL 24 (legislative day, MARCH 29), 1950

Mr. HOLLAND (for himself, Mr. SCHOEPPEL, Mr. JOHNSTON of South Carolina, and Mr. THYE) submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, without amendment

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 4 of 1950 transmitted to Congress by the President on March 13, 1950.

Calendar No. 1576

81ST CONGRESS
2D SESSION

S. RES. 263

[Report No. 1566]

RESOLUTION

Disapproving Reorganization Plan Numbered 4 of 1950.

By Mr. HOLLAND, Mr. SCHOEPPEL, Mr. JOHNSTON of South Carolina, and Mr. THYE

APRIL 24 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950
Reported without amendment

ties under this Act for the period of three months from the date of its enactment. This section shall not apply in the case of any officer appointed by the President by and with the advice and consent of the Senate.

"SEC. 415. The president shall transmit to the Congress an annual report of operations under this title.

"SEC. 416. (a) In order to carry out the provisions of this title, there shall be made available such funds as are hereafter authorized and appropriated from time to time for the purposes of this title: *Provided, however,* That for the purpose of carrying out the provisions of this title through June 30, 1951, there is hereby authorized to be appropriated a sum not to exceed $35,000,000, including any sums appropriated to carry on the activities of the Institute of Inter-American Affairs, and technical cooperation programs as defined in section 418 herein under the United States Information and Educational Exchange Act of 1948 (62 Stat. 6). Activities provided for under this title may be prosecuted under such appropriations or under authority granted in appropriation acts to enter into contracts pending enactment of such appropriations. Unobligated balances of such appropriations for any fiscal year may, when so specified in the appropriation act concerned, be carried over to any succeeding fiscal year or years. The President may allocate to any United States Government agency any part of any appropriation available for carrying out the purposes of this title. Such funds shall be available for obligation and expenditure for the purposes of this title in accordance with authority granted hereunder or under authority governing the activities of the Government agencies to which such funds are allocated.

"(b) Nothing in this title is intended nor shall it be construed as an expressed or implied commitment to provide any specific assistance, whether of funds, commodities, or services, to any country or countries, or to any international organization.

"SEC. 417. If any provision of this title or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of the title and the applicability of such provision to other circumstances or persons shall not be affected thereby.

"SEC. 418. As used in this title—

"(a) The term 'technical cooperation programs' means programs for the international interchange of technical knowledge and skills designed to contribute to the balanced and integrated development of the economic resources and productive capacities of economically underdeveloped areas. Such activities may include, but need not be limited to, economic, engineering, medical, educational, agricultural, fishery, mineral, and fiscal surveys, demonstration, training, and similar projects that serve the purpose of promoting the development of economic resources and productive capacities of underdeveloped areas. The term 'technical cooperation programs' does not include such activities authorized by the United States Information and Educational Exchange Act of 1948 (62 Stat. 6) as are not primarily related to economic development nor activities undertaken now or hereafter pursuant to the International Aviation Facilities Act (62 Stat. 450), nor pursuant to the Philippine Rehabilitation Act of 1946 (60 Stat. 128), as amended, nor pursuant to the Foreign Assistance Act of 1948 (62 Stat. 137), as amended, nor activities undertaken now or hereafter in the administration of areas occupied by the United States armed forces or in Korea by the Economic Cooperation Administration.

"(b) The term 'United States Government agency' means any department, agency, board, wholly or partly owned corporation or instrumentality, commission, or independent establishment of the United States Government.

"(c) The term 'international organization' means any intergovernmental organization of which the United States is a member.

"TITLE V

"INTERNATIONAL CHILDREN'S WELFARE WORK

"SEC. 501. (a) There is hereby authorized to be appropriated to the President not to exceed $15,000,000 for the fiscal year ending June 30, 1951, to enable him to make contributions to the United Nations, or any subordinate body thereof, in such manner and on such terms and conditions as he may deem to be in the interests of the United States, to support permanent arrangements within the United Nations structure for international children's welfare work.

"(b) If at any time during such fiscal year the President deems it to be in the interests of the United States, he is authorized to make contributions, out of any funds appropriated pursuant to the authorization contained in subsection (a), to the International Children's Emergency Fund to carry out the purposes of the International Children's Emergency Fund Assistance Act of 1948 upon such terms and conditions as he may prescribe; but such contributions shall not exceed the limitation provided by section 204 of such Act.

"(c) No additional appropriation shall be made under the authorization contained in such Act of 1948.

"(d) Funds appropriated by the second paragraph of title I of the Foreign Aid Appropriation Act, 1949, shall remain available for the purposes for which appropriated through June 30, 1951."

And the Senate agrees to the same.

That the Senate recede from its amendment to the title of the bill.

TOM CONNALLY,
WALTER F. GEORGE,
ELBERT D. THOMAS,
ALEXANDER WILEY,
H. ALEXANDER SMITH,
Managers on the Part of the Senate.

JOHN KEE,
JAS. P. RICHARDS,
THOMAS S. GORDON,
JOHN M. VORYS,
FRANCES P. BOLTON,
Managers on the Part of the House.

Mr. HOLLAND and Mr. KEM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

REORGANIZATION PLAN NO. 4

Mr. HOLLAND. Mr. President, I wish to give notice, before I make the motion which I intend to make in a few minutes, that Senate Resolution 263, which is a resolution disapproving Reorganization Plan No. 4 of this year, which is the reorganization plan affecting the Department of Agriculture, was reported favorably by the Senate Committee on Expenditures in the Executive Departments several days ago, and is on the calendar.

Mr. President, I am sure that every Senator is thoroughly familiar with the procedure laid down under the terms of the Reorganization Act which was passed last year, under which reorganization proposals in the executive departments, when submited by the President of the United States, become highly privileged matters and may be called up under procedure quite different from the normal procedure on the floor of the Senate. The procedure which I shall attempt to follow, if the Senate shall agree, will be, first, to move to take up Senate Resolution 263, which disapproves Reorganization Plan No. 4. Under the provisions of the law, at least, as understood by the junior Senator from Florida, a majority vote would be effective to make the reorganization proposal and the resolution disapproving the plan the pending business of the Senate. Under the law, as the Senator from Florida understands, there would then be effective a period of time of 10 hours, or not to exceed 10 hours, for debate on the measure, which time would be controlled respectively by the proponents and the opponents of the resolution and would be equally divided. The Senator from Florida understands that at any later stage of the proceedings it is entirely proper, under the Reorganization Act, to make a motion to further limit the time of consideration within the 10-hour period.

The Senator from Florida would hope, after making his motion to make the resolution the pending business, to follow, if same were adopted by the Senate with a motion which would suspend or postpone further action upon the resolution until 30 minutes after the convening of the Senate tomorrow.

Mr. HAYDEN. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. HAYDEN. It is my understanding that there is pending a cloture petition which requires a vote at 1 o'clock tomorrow. How can we settle that conflict?

Mr. HOLLAND. The Senator is eminently correct. However, there need not be any conflict, because, as the Senator from Florida understands, if this measure were to come up for consideration at 12:30 tomorrow it would be entirely within the power of the Senate, by its action at that time by a majority vote, to postpone consideration until a fixed hour after the vote on the cloture petition, or immediately thereafter, by limiting the time and determining who should be in control of the time. I will say for the information of the Senate that the matter has been taken up with the majority leader and the minority leader. It has also been taken up with two Members of the Senate who, as members of a Senate committee are understood by the Senator from Florida to be interested in opposing the resolution which disapproves Reorganization Plan No. 4. Those two Senators have said that in their judgment a limitation of 30 minutes to a side would be adequate. The Senator from Florida suggested 1 hour to a side. However, the two Senators, the Senator from Minnesota [Mr. HUMPHREY] and the Senator from Connecticut [Mr. BENTON] responded with the suggestion that 30 minutes be allowed to each side and that 30 minutes would be adequate. That is the understanding of the Senator from Florida. I see the Senator from Minnesota on the floor.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. HOLLAND. I shall be glad to yield if I may do so without losing my right to the floor. With that understanding

I shall be glad to yield for an observation by the Senator from Minnesota.

The PRESIDING OFFICER (Mr. SPARKMAN in the Chair). Is there objection? The Chair hears none, and it is so ordered.

Mr. HUMPHREY. The Senators from Minnesota and Connecticut were speaking only as two members of the Committee on Expenditures in the Executive Departments. I assume that the Committee on Agriculture is also interested. So far as we are concerned, as two majority members, we felt that it would be adequate time, since we have no particular presentation to make.

Mr. HOLLAND. That was the understanding of the Senator from Florida. The Senator from Florida has mentioned the matter to all members of the Committee on Agriculture whom he knew to be present in the city at the time. He does not understand that any member of the Committee on Agriculture and Forestry wishes to oppose the resolution to disapprove the reorganization plan. If the Senator from Florida misunderstood the situation, of course any Senator who is a member of the Committee on Agriculture and Forestry may call that fact to the attention of the Senate. At least that is the understanding of the Senator from Florida.

Mr. HAYDEN. Mr. President, will the Senator yield?

Mr. HOLLAND. I shall be glad to yield, provided I do not lose the floor by yielding.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HAYDEN. Will the Senator indicate whether he expects to dispose of this entire matter today, or tomorrow?

Mr. HOLLAND. The Senator from Florida would expect to dispose of the matter tomorrow, preferably at 12:30, if debate could be completed this afternoon. If it could not be completed this afternoon, the Senator from Florida would like to see the matter disposed of immediately after the vote is taken on the cloture petition.

Mr. HAYDEN. Mr. President, it seems to me that the time is running so close that there may be a conflict, which should be avoided.

Mr. HOLLAND. I am glad that the Senator from Arizona made his point with reference to time running close on these matters. Time is running close in two ways. It is running close, first, as between the two privileged matters, to which the Senator has alluded. Those are the cloture matter and the matter which the Senator from Florida expects to bring up. I refer also to the time which is existent during which these resolutions of disapproval of reorganization plans can be effectively considered. As the Senator from Florida understands, the time runs out on next Tuesday. If that be not correct, the Senator from Florida sees on the floor of the Senate the distinguished chairman of the Committee on Expenditures in the Executive Departments, the Senator from Arkansas, and with unanimous consent of the Senate, I should be glad to yield in order that he may comment on that point.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLELLAN. Plans on which action has not been taken by either House to disapprove will go into effect—that is, plans 1 through 21—at midnight on Tuesday next. They will go into effect then unless disapproval by one House or the other has taken place before that time.

I rose to inquire of the Senator whether it is his plan to conclude debate on the resolution this evening and vote on it at 12:30 tomorrow. I have no objection as to the amount of time that may be consumed, because whatever is agreeable to other Senators is satisfactory to me. If that is what the Senator has in mind I call the Senator's attention to the fact that if it is planned to have a vote at 12:30 tomorrow, consideration should be given to the fact that it takes a little time to get a quorum present, and probably very little or no time would be left for debate. That should be borne in mind if it is intended to take a vote at 12:30 tomorrow.

Mr. HOLLAND. I appreciate the suggestion of the Senator from Arkansas. If debate cannot be completed this afternoon, it would be thoroughly agreeable to the Senator from Florida, to have the vote taken immediately after the cloture vote.

Mr. WHERRY. Mr. President, will the Senator permit me to make a parliamentary inquiry?

Mr. HOLLAND. The Senator from Florida would like to say, first, if he may continue for another moment, that four Senators appear as sponsors of this measure, which makes it a little difficult for the Senator from Florida to speak with the certainty with which he should like to speak. The Senator from Kansas [Mr. SCHOEPPEL], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Minnesota [Mr. THYE] and the Senator from Florida are joint introducers and sponsors of this resolution. It would be entirely acceptable to the Senator from Florida, as one of the sponsors to complete debate tonight and to postpone action on the resolution until immediately after the taking of the vote on the cloture petition, if that course be agreeable to the Senators who are joint sponsors.

Mr. WHERRY. Mr. President may I make a parliamentary inquiry?

The PRESIDING OFFICER. Does the Senator from Florida yield for that purpose?

Mr. HOLLAND. By unanimous consent I yield for that purpose, if I do not lose the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHERRY. I ask this question, Mr. President. If the motion to take up this resolution is agreed to, and there is no limitation of debate agreed upon, is it not a fact that the cloture motion will be voted on at 1 o'clock regardless of whether debate on this resolution has been terminated?

The PRESIDING OFFICER. The time for the vote on the cloture petition is set for 1 o'clock, or immediately following a quorum call, which is made at 1 o'clock, assuming the Senate meets at 12 tomorrow.

Mr. WHERRY. Then, taking up this resolution by vote or unanimous consent in no way interferes with or changes the condition under which the cloture vote is to be taken?

The PRESIDING OFFICER. The Senator is correct.

Mr. WHERRY. After the motion to take up the resolution has been made, regardless of a time limitation—and I am in favor of a limitation—it does not change the cloture situation whether the debate has been concluded by 12:30. The motion to consider the resolution can be voted on either before or after the vote on the cloture motion has been had, even though there is no limitation.

Mr. HOLLAND. I thank the Senator from Nebraska. The understanding of the Senator from Florida is in accord with his.

Mr. McCLELLAN. Mr. President, will the Senator yield for a suggestion?

Mr. HOLLAND. Yes.

Mr. McCLELLAN. I make the suggestion, if the resolution is taken up this afternoon, that the Senator from Florida undertake to get a unanimous-consent agreement that 1 hour after the vote on the cloture petition tomorrow we shall vote on the resolution, with the 1 hour's time divided equally between the proponents and the opponents. In that way we would have some time for discussion before the vote is taken. The vote should be taken not later, I should say, than 2:30 tomorrow.

Mr. HOLLAND. I am completely willing to accede to any reasonable request from the Senator from Arkansas. However, I wish to remind him that the Senator from Colorado has already given notice of his intention to call up two other reorganization proposals tomorrow afternoon, and of the further fact that several Members of the Senate have given notice of the necessity for their leaving shortly after the taking of the vote on the cloture petition. Of course, the Senator is aware of the fact that 49 affirmative votes are required for the successful handling of this particular procedure.

Mr. McCLELLAN. Then I suggest we make it 30 minutes after the cloture vote. That will leave 15 minutes on each side for closing the discussion.

Mr. HOLLAND. I think well of that suggestion, and unless there is some better one——

Mr. SCHOEPPEL. Mr. President, does the Senator from Florida see any objection, if, by the will of the Senate, by a vote tonight, it shall decide to start tomorrow's session at 11 o'clock? In that case there would be no dispute and no difficulty.

Mr. HOLLAND. I am sorry to have to advise the Senator that, as stated by the Presiding Officer just a few moments ago, under the rule the vote will come at no fixed hour on the calendar day, but 1 hour after the convening of the Senate on the calendar day. Unless I am mistaken, that is the situation. That therefore would prevent the handling of the matter in the way the Senator suggested. In other words, if the Senate convenes at 11 o'clock, at least as the rule is

understood by the Senator from Florida, the cloture vote would come at 12 o'clock, 1 hour after the convening of the Senate. I should be glad to yield to the majority leader if he has a different understanding of the cloture proceeding.

The PRESIDING OFFICER. The Chair will state that the Senator is correct.

Let the Chair make another suggestion, which he thinks would be fitting at this time. The Chair calls attention to the exact wording of rule XXII pertaining to the vote on cloture:

> And if that question shall be decided in the affirmative by two-thirds of the Senators duly chosen and sworn, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

Mr. HOLLAND. I appreciate the fact that the Chair has called attention to that provision. It is one which I had temporarily forgotten, but it is one which I had in mind in making the suggestion that the vote on this particular matter be taken at 12:30 o'clock, rather than following the cloture vote. I see no possible reason why a quorum call could not make the Members of the Senate available by 12:30 tomorrow, which would be 30 minutes before the time of the cloture vote.

Mr. President, I say again, I am perfectly willing, and I am sure the Senator from Kansas, whom I see present, and the Senator from South Carolina, and the Senator from Minnesota, would be quite agreeable to the debating of the measure this afternoon. I do not see here at this time the Senator from Connecticut and the Senator from Minnesota, but perhaps we can complete the debate this afternoon. They have already stated, as I have remarked to the Senate heretofore, that 30 minutes is all they requi for the discussion of the matter.

Mr. President, I move at this time that the Senate proceed to the consideration of Senate Resolution 263, relative to Reorganization Plan No. 4.

Mr. LUCAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Hill	Maybank
Anderson	Hoey	Mundt
Benton	Holland	Myers
Brewster	Humphrey	Neely
Bricker	Hunt	O'Conor
Bridges	Ives	O'Mahoney
Butler	Jenner	Robertson
Byrd	Johnson, Colo.	Russell
Cain	Johnson, Tex.	Saltonstall
Capehart	Johnston, S. C.	Schoeppel
Chapman	Kefauver	Smith, Maine
Connally	Kem	Smith, N. J.
Cordon	Kerr	Sparkman
Darby	Kilgore	Stennis
Donnell	Knowland	Taft
Douglas	Langer	Taylor
Dworshak	Leahy	Thomas, Utah
Eastland	Lodge	Thye
Ecton	Long	Tobey
Ellender	Lucas	Tydings
Ferguson	McCarran	Watkins
Fulbright	McCarthy	Wherry
George	McClellan	Wiley
Gillette	McFarland	Williams
Green	McKellar	Withers
Gurney	McMahon	Young
Hayden	Malone	
Hendrickson	Martin	

The PRESIDING OFFICER. A quorum is present. The question is on the motion of the Senator from Florida [Mr. HOLLAND]. The motion is not debatable.

The motion was agreed to, and the Senate proceeded to the consideration of the resolution (S. Res. 263), which reads as follows:

> *Resolved*, That the Senate does not favor the Reorganization Plan No. 4 of 1950 transmitted to Congress by the President on March 13, 1950.

Mr. HOLLAND. Mr. President, before making the next motion I should like to make a statement for the information of the Senate. It is the information of the Senator from Florida that one Senator desires to speak on the FEPC question, and that he will confine his remarks to not to exceed 30 minutes. Therefore when the Senator from Florida makes the next motion, which he understands is not debatable, and that is the reason he makes the explanation before he attempts to make the motion, it will be his intention to state by his motion that the debate upon the resolution which has now been taken up for consideration, shall be suspended until 6 o'clock; that thereafter the matter of Reorganization Plan No. 4 will be debated for 1 hour, the time to be equally divided between the proponents of the resolution, and the opponents of the resolution, the time to be controlled by the Senator from Kansas [Mr. SCHOEPPEL] for the proponents, and the majority leader for the opponents of the resolution.

Mr. LUCAS. No, Mr. President; I am not a member of the committee.

Mr. HOLLAND. The time for the opponents to be controlled by the Senator from Minnesota [Mr. HUMPHREY].

Mr. HUMPHREY. Mr. President, I have no comments whatsoever to make with reference to the resolution. I appreciate the dubious honor, but I would suggest that the time be controlled by someone who is more concerned with this particular plan.

Mr. LUCAS. Mr. President, I will take control of the time for the opponents if no other Senator will do so.

Mr. HOLLAND. The time to be controlled, then, Mr. President and Senators, by the Senator from Illinois, the majority leader, for the opponents of the resolution and by the Senator from Kansas [Mr. SCHOEPPEL] for the proponents,

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. LUCAS. May I inquire as to how many members of the committee voted against the disapproval of the plan?

Mr. HOLLAND. Mr. President, I ask that I may be allowed to yield so that reply may be made by the Senator from North Carolina [Mr. HOEY].

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HOEY. Mr. President, my recollection is that there were 3 Senators voting against it.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield for a question.

Mr. MAYBANK. Am I correct in understanding that the unanimous-consent request of the Senator from Florida was that some Senator desiring to speak on the FEPC legislation be limited to 30 minutes? I could never assent to such a request as that, because the matter is too important to permit such limitation. The question should be debated more fully.

Mr. HOLLAND. It is not my purpose to include any unanimous-consent request at all in my motion.

Mr. MAYBANK. But I understood that a unanimous-consent request had been made which contained a limitation of time.

Mr. HOLLAND. No; my motion would contain no unanimous-consent request. I desire to be considerate, Mr. President——

Mr. MAYBANK. Mr. President, will the Senator further yield?

Mr. HOLLAND. I yield.

Mr. MAYBANK. I wish to make it perfectly clear that I am in accord with the Senator's views respecting the reorganization plan, but I would never permit a limitation of half an hour for a Senator to speak on so important a question as FEPC.

Mr. HOLLAND. Mr. President, I may explain to the Senator from South Carolina that the Senator from Florida has discussed this matter with the Senator who wishes to be heard on the subject of the FEPC, and has been assured by that Senator that 20 or 25 minutes would be sufficient, but he was trying to obtain a little more time than that, because he thought 30 minutes would probably be nearer the full amount of time he would need. The Senator in question is the Senator from Pennsylvania [Mr. MYERS].

Mr. MAYBANK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Florida has the floor. Does he yield for that purpose?

Mr. HOLLAND. I will yield for that purpose; but first I shoud like to explain the nature of the motion, because I think by doing so may relieve the apprehension of the Senator from South Carolina.

Mr. MAYBANK. I thank the Senator.

Mr. HOLLAND. Mr. President, my motion, as now intended, would be that the consideration of the pending business, which is the resolution disapproving Reorganization Plan No. 4, be suspended until 6 o'clock; that debate on it resume at 6 o'clock and continue until 7 o'clock this evening, when it be suspended until tomorrow at 12:30 p. m., at which time the vote would be taken.

That is the motion which I have in mind submitting.

Mr. ROBERTSON. Mr. President, I should like to say that I am in thorough sympathy with the Senator's proposal as to Reorganization Plan No. 4, because I know that all Virginia farmers are opposed to having the Secretary of Agriculture take charge of their own extension service.

However, I rather share the view of the Senator from South Carolina, our distinguished colleague, about this matter. I am quite reluctant to agree to impose a limitation of 30 minutes in re-

gard to a speech by a proponent of FEPC, because although I hope I will not have to speak, yet if I am called upon to speak, it will take me 3 days to say what I have to say. [Laughter.] So I do not like to see a Senator on the opposition side be subjected to a squeeze play on the basis of a 30-minute limitation.

Mr. HOLLAND. Mr. President, I see that various Members of the Senate have varying views on this matter. So if I may be yielded 10 minutes by the Senator from Kansas, after he obtains the floor, I shall ask that in connection with the further consideration of this matter, the time be controlled by the Senator from Kansas and the Senator from——

Mr. LUCAS. Mr. President, how much time does the Senator propose be allowed?

Mr. HOLLAND. We do not propose to limit the time at present. It would be divided equally, under the general arrangement of the Reorganization Act.

It would be the intention of the proponents to use 30 minutes for debate. The opponents could spend that much time in debate if they saw fit to do so. At the end of that time, if both the opponents and the proponents were through, as I believe would be the case, we would then move to suspend further action on that matter until 12:30 tomorrow.

Mr. LUCAS. Mr. President, here we have a perfect example of consistency. The Senator from Florida intends to move that the Senate vote at 12:30 o'clock tomorrow on this matter, thus cutting off debate. Yet the Senator from Florida and all other Senators who are opposed to the FEPC have debated it for 2 weeks, and they are going to continue to debate it from now on, they say. They do not want debate on that issue to be cut off.

Mr. President, I myself may wish to have an hour for debate on plan No. 4. Perhaps some other member of the Committee on Agriculture and Forestry will want an hour to debate the problem that is before us. Then again no debate may be necessary as there is much opposition to plan No. 4. However, under the rule we have 10 hours for the debate.

So it comes to me with great surprise that one of the Senators who is violently opposed to any limitation on debate on FEPC now should tell us that he will move to have the Senate vote at 12:30 tomorrow on plan No. 4, regardless of how much time Senators may take on it tonight.

In other words, Senators may debate the resolution for an hour and a half or 2 hours this evening, or perhaps we shall not have enough Senators present at that time to constitute a quorum, and perhaps then the Senate will take a recess until tomorrow.

However, regardless of what happens tonight, the Senator from Florida would have the Senate vote at 12:30 tomorrow on this question; he would cut off the debate by all Senators, if he could get the Senate to agree to do so. He would not give the Senator from Illinois an opportunity to debate this question, should he want to debate it, unless we stay here tonight.

Mr. President, throughout this debate I have suggested that we take up this matter immediately following the disposition of the cloture petition tomorrow, and debate it at that time.

Simply because some Senaor wants to go home, simply because some Senator has an appointment somewhere in the hinterlands to make a speech, it is proposed that we be denied the right to debate this issue, and a motion to that effect is to come from a Senator who does not believe in any limitation of debate.

Mr. President, I hope the Senate will not agree to the 12:30 proposal.

Furthermore, the time proposed in that connection would come just before the quorum call preceding the vote on the cloture petition on FEPC, and some Senator might wish to make a speech on FEPC at that time.

Apparently, Mr. President, some Senators are more interested in rejecting this reorganization plan than they are interested in the FEPC bill.

The FEPC is an important matter, and the question of imposing cloture on it is to be voted on tomorrow at 1 o'clock. It seems to me that immediately before that time, any Senator should be able to speak on that question, instead of having all the time taken by one or perhaps two quorum calls and by a vote on this reorganization issue.

Mr. HOLLAND. Mr. President, I should like to reply, please.

First, let me say that I inquired as to what Senators wished to be heard on FEPC. I learned of only one, namely, the Senator from Pennsylvania. So I asked him how much time he would need for his speech. He said he would need 20 or 25 minutes. Therefore, I was suggesting that 30 minutes be allowed.

However, I am perfectly willing to go ahead with the regular order on what is now the pending question, if that is the will of the Senate.

Let me say to my friend, the Senator from Illinois, that so far as tomorrow is concerned, we have been debating FEPC for 9 days. Nevertheless, if the Senator from Illinois thinks that in that additional hour there is something which should be said about FEPC, I am perfectly willing to leave that time clear, also.

However, I thought it would be a little presumptuous for me to suggest by my motion a conclusion which would indicate that I felt that the situation regarding the vote on cloture is predetermined, because that would have to be the basis of a motion to take up the reorganization plan issue immediately following the vote on the cloture petition.

If the petition for cloture should fail, of course a motion made by the Senator from Florida to have the Senate take up the reorganization plan issue immediately following the vote on cloture would be valid and would govern the proceedings of the Senate. However, if the cloture petition succeeded, the contrary would be the case.

Inasmuch as apparently the Senator from Illinois thinks the cloture petition will fail, and has thrown in the towel at this time, I shall change my mind about making the motion, and shall proceed first to try to obtain consent regarding the control of the time—which consent I hope will be given—and next, in regard to the debate on this reorganization plan. Apparently there is no Senator to defend it, although I certainly hope it will be defended here on the floor of the Senate.

Mr. President, I have tried to be diligent. I have gone to the two Senators who had indicated a refusal to approve the motion intended to be proposed by the Senator from Florida and by the other Senators who have joined with him regarding that matter. The two Senators who had indicated their refusal suggested that 30 minutes be allowed them, but I am perfectly willing to have us go ahead without any limitation except that which the act itself imposes.

Mr. ROBERTSON. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield to the Senator from Virginia for a question.

Mr. ROBERTSON. My question is this: Does not the Senator from Florida know that all farm organizations and all farmers who know about the matter and practically all Senators are opposed to Reorganization Plan No. 4?

Mr. HOLLAND. I believe that to be the case.

Mr. ROBERTSON. Does not the Senator from Florida realize that "When you have the votes," it is not necessary to speak? [Laughter.]

Mr. HOLLAND. I may say to my good friend, the Senator from Virginia, that to my dismay, I noticed yesterday afternoon that when two reorganization issues were under consideration—one of them half an hour ahead of the other—between the times for the votes on those two issues, six Senators left the Senate, and therefore there was a leeway of only 1 vote above the 49 votes required, when the vote was taken on the second reorganization issue, despite the fact that I believe that at least 70 Senators disapproved of that particular reorganization plan. So, the Senator from Florida does not want to find the proponents of this measure in that or a worse situation this afternoon.

Mr. ROBERTSON. But in view of the position taken by our beloved friend and distinguished majority leader that this proposal is not going to give an adequate opportunity to those who favor FEPC to present their views and convince us from the South that we are wrong and they are right, would it not be in the interest of harmony and less embarrassing to some of us if the Senator from Florida would ask permission to vote, say, at 2 o'clock tomorrow? Certainly there is not going to be any great exodus from Washington by distinguished Members of this body before 2 o'clock, and we could have the vote on the cloture motion at 1 o'clock, and have it promptly, and then have as much as nearly an hour in which to discuss the resolution, on which Senators already know how they are going to vote. I do not think the Senator will be hazarding his chances to get 49 votes by making that concession to the majority leader. Certainly it would make me feel considerably better

about the Senator's resolution on Reorganization Plan No. 4, if we could take about an hour to settle the matter.

Mr. HOLLAND. I appreciate the statement of the Senator from Virginia, and I recognize the fact that we do have some value involved in making a concession, because I suggest it would be the first time in his senatorial life that the Senator from Illinois would be against the limitation of debate, and I think it is worth while for us to have that in the RECORD on this matter.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. WHERRY. I may suggest to the distinguished Senator, I was under the impression that if the motion to take up this reorganization plan carried, there would be an effort made to agree on a proposal to limit debate. I ask the distinguished Senator, why not start in now with plan No. 4, and limit the time to whatever the distinguished Senator feels is necessary? There are other Senators besides the distinguished Senator from Pennsylvania who would like to address the Senate. I assure the Senator there will be an audience here. The junior Senator from Missouri [Mr. KEM] has been attempting to get the floor for 2 days. In fact, he is ready to speak now. The Senator from Indiana is ready to speak. He would like to speak tonight. I am trying to be of assistance. We on this side of the aisle are not obstructionists. [Laughter.] I should like to see if there is not some way by which the Senator can move that the Senate start now to debate plan No. 4, limiting debate to an hour or an hour and a half, or to whatever time the Senator thinks is satisfactory. I think it will carry. And then we can start with FEPC. We could debate it here until the majority leader moves to recess or adjourn.

Mr. HOLLAND. Mr. President, I am going to make one more effort before beginning debate on the resolution, that is, I ask unanimous consent that the vote on this measure be set for 2 o'clock tomorrow afternoon.

Mr. LUCAS. Reserving the right to object, why can we not get it out of the way tonight, in view of what the distinguished Senator says? We have everyone here.

Mr. HOLLAND. Mr. President, the reason we cannot get it out of the way, I think, is obvious. The law, the very unusual law, under which we are operating, does not permit reconsideration. The Senate will not know until the vote is cast how many Senators have done today as they did yesterday—left the Senate after about 5 o'clock. I think the proponents of this measure are entitled to have a vote at a time when the membership of the Senate is present, and I am sure all the proponents would want that, likewise.

Mr. THYE. Mr. President, will the Senator yield to me for a brief comment on the question?

Mr. HOLLAND. I yield for a question.

Mr. THYE. Inasmuch as the Senator is speaking about voting possibly at 2 o'clock, it would be more convenient to one Senator, other than myself, if the vote could be taken at 1:45. That would permit him possibly to cast his vote and catch the plane on which he has a reservation.

I would say, Mr. President, if I may be allowed another moment, I do not believe that discussion or debate on Reorganization Plan No. 4 would take many minutes. I believe we have already discussed the question to this extent, that we have consumed more than half the required time necessary to discuss it under parliamentary procedure, in which we have engaged, and, not wishing to cast any reflection on the able majority leader, I believe he will be able to say all that he has in mind to say on this question in 15 minutes. I am sure of that. I personally would not want to speak more than about 2 or 3 minutes, and I know of no other Senator who would want to speak more than 10 or 15 minutes.

Mr. LUCAS. Mr. President, if the Senator will yield——

Mr. HOLLAND. I yield for a question.

Mr. LUCAS. I do not know whether I can make a question out of it. I will try an observation, if I am not called to order. I do not see why we cannot vote on this resolution, say, at 7 o'clock tonight. According to all the speeches, no one is going to vote against disapproval. The Senator should be able to get 49 votes here tonight, I should think, the way everyone is talking about getting it over with.

Mr. HOLLAND. Mr. President, I shall proceed to debate the resolution as quickly as I can. It will be in the pleasure of the Senate to control the situation thereafter.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield for a question.

Mr. WHERRY. Will not the Senator again request unanimous consent to vote on this resolution at 7 o'clock tonight, and to divide the time?

Mr. HOLLAND. Mr. President, the Senator from Florida does not know how many Senators have left the Chamber, and the Senator from Florida does not feel that he has a right to foreclose Senators who have left the Chamber not knowing that this resolution was coming up, nor does he feel that he has any right to jeopardize the adoption of the resolution, which requires 49 affirmative votes. It is a measure on which there can be no reconsideration. Therefore, the Senator from Florida, much as he would like to dispose of the matter tonight, will not agree on that hour for voting.

Mr. WHERRY. Mr. President, will the Senator from Florida object if I make a unanimous-consent request to vote at 7 o'clock tonight?

Mr. HOLLAND. Mr. President, I will debate this matter just as rapidly as possible. If the Senator from Kansas will control the time, and will allow me 10 minutes, I shall appreciate it.

Mr. SCHOEPPEL. The Senator from Florida is yielded 10 minutes.

Mr. HOLLAND. Mr. President, I shall cover this matter as quickly as possible. It ought to be clearly apparent from the short debate we have had that no one favors this reorganization plan. The reorganization plan completely bypasses and defeats and violates the intention of Congress in the passage of the reorganigation law last year. Under the provisions of that law, the Congress permitted or, I may say, directed the Executive to work out reorganization plans and to submit them, but, in defense of its own jurisdiction and in the performance and protection of its own duties and responsibilities, it required that reorganization plans be submitted so that either House by a constitutional majority of its membership might exercise its duty by disapproving such a measure if it found it to be unwise. The fact is that this measure has nothing specific in it except two or three matters of relatively minor importance. It leaves out all of the tremendously important suggestions and recommendations of the Hoover Commission, and it simply asks the Congress to allow the granting of a blank check to the Secretary of Agriculture to reorganize at his pleasure and at his will all the far-flung activities of the Department of Agriculture, except those that are performed by corporations within the Department of Agriculture.

Mr. President, I wish to remind the Members of the Senate and the public that there are tremendous activities in the Department of Agriculture affecting every farm family and all those who depend upon farm production for their prosperity throughout the Nation. There are activities, for instance, such as the Agricultural Extension Service, which is not incorporated, and which comes under this particular reorganization plan; the Production and Marketing Administration would be given over to the Secretary of Agriculture to remake, as he saw fit under this particular reorganization plan. Likewise, the Soil Conservation Service, and various other activities, such as the Farmers Home Administration, and numerous other activities of tremendous importance.

So far as the Senator from Florida is concerned—and he speaks now for himself and for his cosponsors—we could not feel that we had adequately discharged our responsibility or lived up to our obligations to our own people if we did anything which would make it possible for the havoc to be wrought which could be wrought by the disruption of those great activities, or their reorganization one within the other. We realize perfectly well that there are difficult and dangerous suggestions now being discussed by the public affecting each one of those activities, and we feel that the Senate and the House ought to have an opportunity to see ahead of time what is actually suggested in the way of reorganization of those vital activities before we are asked to give our approval.

Mr. President, I suggest to the Senate that not only do we not know what is to be expected, but we know that last July, when the chairman of the Committee on Agriculture and Forestry asked the Sec-

retary of Agriculture to comment on the proposed Hoover recommendations, he at that time indicated in writing that he was not in accord with any of the major measures covered by those recommendations.

We know, in addition to that, that the Secretary of Agriculture, when he appeared before the committee, stated a few days ago that he was still of that opinion. because he was asked on three different occasions by the distinguished Senator from Minnesota [Mr. THYE] the following question, in substance:

> Mr. Secretary, if you have something in mind that you can assure this committee and the Senate that you intend to do, we should like to pass upon that. We do not like to oppose recommendations coming from the Chief Executive which are supposed to be in accord with the Hoover plan. We do not believe this is.

The Secretary of Agriculture stated that he did not know what reorganizations he would accomplish if the measure should become operative.

Mr. President, we know that is the fact, and we know, likewise, that numerous highly reputable farm organizations of the Nation have made it very clear that they disapprove of this particular plan. The Farm Bureau Federation, not only by its national officers, but by nearly every State office in the Nation, and by action of the legislative committees in nearly every State of the Union, have disapproved it. Likewise, the National Grange disapproved it, as did the National Council of Cooperatives. The National Cotton Council took exactly the same action.

Mr. President, we also know that this is the only reorganization plan among all those submitted which has actually drawn the formal fire of the task force of the Hoover Commission, which drafted, after 10 or 11 months of very arduous work, the recommendations, most of which were adopted and became the basis of the recommendations of the Hoover Commission.

The task force appeared through four representatives before the committee to say that they did not favor the plan, that they felt it would be a travesty for it to be approved, because it would completely bypass the intention of Congress, that it so completely threw away the work and the labors of the Hoover Commission and the task force, so completely subjected the agriculture of the Nation to grave dangers, that they did not want to approve it.

Briefly, Mr. President, that is the situation. Those four great farm organiaztions and numerous other farm organizations are taking that position. The committee has told us that this is not a good plan and that we should turn it down. We know of a few minor particulars which are included in the plan, one of them being three additional Assistant Secretaries for the Secretary of Agriculture; another being the giving to the Secretary himself of all powers and duties of his agencies, his employees, and personnel. Except for those, there is no pattern, plan, or intention shown in the proposed reorganization plan, except to give the Secretary carte blanche not only for a first reorganization, but for as many reorganizations, so long as this plan is in effect, as he may care to undertake. That is without limitation as to the activities, other than the incorporated activities in the Office of the Secretary of Agriculture. And other minor exceptions.

Mr. BRICKER. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. BRICKER. The Senator has had experience with the Extension Service in his State, has he not?

Mr. HOLLAND. Yes.

Mr. BRICKER. Under this plan, as I read it and as I have listened to the Senator from Florida, I believe the Extension Service would be put directly under the charge of the Secretary of Agriculture.

Mr. HOLLAND. It would, and he would have the power of life and death over it.

Mr. BRICKER. He could do as he pleased with it; he could change the relationship between the educational institutions, the State departments of agriculture, and the field agents in any way he saw fit, and make them directly responsible to the Secretary of Agriculture or any other political appointee if he so desired.

Mr. HOLLAND. The Senator is exactly correct; and the same observations are true with reference to the Soil Conservation Service and the other activities which I have mentioned.

The PRESIDING OFFICER. The time of the Senator from Florida has expired.

Mr. SCHOEPPEL. Mr. President, I yield 10 additional minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 10 additional minutes.

Mr. HOLLAND. Mr. President, I ask that marked portions of the testimony of each of the witnesses whom I shall now name may be placed in the RECORD as a part of my remarks.

First, a part of the statement of Mr. Short, the vice president of the American Farm Bureau Federation, appearing on pages 50 and 51 of the hearings; next, a part of the statement of Dean Rusk, of the Illinois State College of Agriculture, who was chairman of the task force, the statement appearing on pages 33 and 34 of the printed report of the hearings; next, the testimony of Mr. John Davis, the head of the National Council of Farm Cooperatives, that portion of his testimony appearing on page 39; next, a portion of the testimony appearing on pages 41, 42, and 43, being the testimony of Mr. Blake, the head of the National Cotton Council; lastly, the testimony of J. T. Sanders, speaking for the National Grange, whose testimony appears on page 35 of the hearings.

I ask unanimous consent, Mr. President, that those excerpts may be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The excerpts of testimony referred to are as follows:

EXCERPT FROM STATEMENT OF R. E. SHORT, VICE PRESIDENT, AMERICAN FARM BUREAU FEDERATION

Reorganization Plan No. 4 submitted by the President on March 13 constitutes a general grant of authority to the Secretary of Agriculture, without direction or guidance to him to carry out any phase of reorganization recommended either by the Hoover Commission or its task force on agriculture. Since it is without guide or direction, we regard the plan as an unwise grant of general authority and power.

* * * * *

Some question might be raised—we are so concerned about this particular reorganization plan. We would like to call attention to the fact that the United States Department of Agriculture is a very large department; its agencies reach into every State, into every community, and into every county, not with just one program, but with several. If in the future, effort was made to misuse this extensive administrative organization, the ill effects or the disadvantages of centralized government might be much more noticeable in an organization of this kind than in some of the other administrative branches of government. We would like to call attention to the fact that the legislative history of the Reorganization Act indicates that the reorganization plans submitted to Congress would be in some detail, so that the Congress would know, and everyone else would know something about the direction the reorganization was taking. Reorganization plans are supposed to go into considerable detail, thus enabling the Congress to have some check on authority granted in the Reorganization Act.

Therefore, we want to again say that by reason of the fact that plan No. 4 is really not a plan—just a grant of authority without congressional check—we feel it should be rejected.

EXCERPT FROM STATEMENT OF H. P. RUSK, DEAN, ILLINOIS STATE COLLEGE OF AGRICULTURE, AND CHAIRMAN OF THE HOOVER COMMISSION TASK FORCE ON AGRICULTURAL ACTIVITIES, URBANA, ILL.

We believe that the bare minimum in the way of needed guidance is a directive to reorganize the USDA along functional lines that will group related functions and activities into integrated administrative units, reduce overlap and duplication, promote economy, increase efficiency of operation, and provide through a reorganization of State and county committees an effective two-way process of policy making and program building so that the will of the people may, through democratic procedures, be assured of due consideration.

* * * * *

We as former members of the agricultural task force believe that Reorganization Plan No. 4 should be rejected and that specific directives should be provided by the Congress to effectuate the basic principles and recommendations of the Commission.

I am advised that legislation is now being prepared to accomplish this objective and will be introduced at an early date.

* * * * *

Senator HOLLAND. Mr. Chairman, I found the members of this committee exceedingly modest yesterday afternoon in conferring with them—modest as to their own service in this matter. I would like to ask Dean Rusk, if he would please state in the record at my request the period of time, the nature and the extent of the services rendered by the eight members of this task force.

Mr. RUSK. In the letter submitting our report, I made this statement. Including January 13 and 14, 1948, when the committee was organized, 11 meetings have been held ranging from 2 to 6 days in length; 8 were held in Washington, 2 in St. Louis, and 1 in Chicago. Almost without exception they were attended by the entire committee. In addition, subcommittees held meetings in several parts of the country.

I could add that in official committee meetings we spent approximately 40 days, and many members of the task force spent a great deal of time between committee meetings in actually working on the program of the task force, and interviewing people.

Senator HOLLAND. What was the entire lapsed period of time?

Mr. RUSK. Approximately 10 months.

Senator HOLLAND. From the beginning of your functioning and making your recommendations to the Hoover Commission.

Mr. RUSK. Approximately 10 months, I believe.

EXCERPT FROM STATEMENT OF JOHN DAVIS, REPRESENTING NATIONAL COUNCIL OF FARM COOPERATIVES

At the present time our basic agricultural policy is in more or less of a state of flux. The farm plan that will be the basic structure for the next several years is not definitely crystallized. There are various plans that are up for discussion, and it seems to us that it is very difficult and unwise to try to reorganize the Department until we know what kind of farm plan the Department is to carry out.

I think we will know much more about the shape of our farm policy within a few months, and the reorganization should be geared to the evolving farm policy. So we do not think now is a good time for a reorganization to take place.

We feel further that Congress should assume the responsibility for the laying out of the general outline of organization at the time Congress lays out the general outline of basic farm policy.

The other point that I want to make is this: Within the Department of Agriculture there are a number of strong, well-organized agencies. They are agencies that are set up to carry out important functions. The people that are heading those agencies and that are working in those agencies are most of them very sincere people, but it is only human nature for a person to think that his particular task and his particular agency is the most important. The result is that whenever a reorganization takes place in the Department, and they are fairly common, it is more or less a matter of rivalry among agencies as to which particular program and agency will be dominant. I think that any future reorganizations will pretty much suffer from the same type of pressure from within the Department. This being true, it seems to us that it is going to be very difficult for any Secretary of Agriculture, and this is no reflection upon any particular Secretary of Agriculture, to build and put into effect from within the Department the outline of a sound reorganization.

EXCERPTS FROM STATEMENT OF WILLIAM RHEA BLAKE, EXECUTIVE VICE PRESIDENT, NATIONAL COTTON COUNCIL

Under plan 4, if the Congress permits it to go into effect, as we see it, the Secretary could do exactly what the Hoover Commission recommended. He could also do exactly opposite from what the Hoover Commission recommended, or he could do nothing, or he could do anything in between. We do not think that that is in keeping with either the spirit of the letter or the Hoover Commission report.

* * * * *

So I do not quite understand this theory of broad executive authority, such as is contemplated in this plan. I think it is just fundamentally bad. I do not think there is any need for it. I do not think it is a safe and sound procedure, and for that reason, if for no other, I think Reorganization Plan No. 4 should be disapproved.

Another point in that same connection, Mr. Chairman, is why did we have a Hoover Commission in the first instance? If the plan of reorganizing the executive departments of the Government, if the method of reorganization was going to be to simply turn over to the heads of those executive departments carte blanche authority to reorganize them any way they saw fit, then what did we need with the Hoover Commission? Why did this task force committee that some of us worked on, spend 10 months sweating and stewing around and talking to dozens and dozens of people and trying to put something together that made sense in the way of an orderly reorganization plan for the Department? And why did the Hoover Commission itself spend all of the months of work that it spent if in the final analysis the way to reorganize the Federal Government was simply to write blank checks to each of the department heads and let them go their way?

EXCERPT FROM STATEMENT OF J. T. SANDERS, LEGISLATIVE COUNSEL, NATIONAL GRANGE, WASHINGTON, D. C.

We trust the Senate will reject plan 4 for reorganization of the Department of Agriculture. It grants to the Secretary of Agriculture practically complete authority to reorganize any of the agencies in the Department in any way he sees fit without regard to the expressed wishes of Congress or the expressed recommendations of the Hoover Commission. * * *

The only way to avoid the possibility of such abuse is for the Congress itself to lay down in the law the broad course it desires to be followed in the administration of the law. Plan 4 would abolish all these safeguards and policies and give the Secretary power to do anything he wanted. We feel this is a most dangerous grant of power.

Mr. HOLLAND. Mr. President, there is just one additional matter to which I wish to invite attention. If the Senators have the plan before them—and I am sorry that the limitation of time does not permit discussion of it item by item—if they will look at the last section, which is section 5 of the plan, they will find it allows not only complete reorganization at this time, but it allows reorganization over and over again. I especially want every Senator to mark and to note that that particular section allows the Secretary of Agriculture, in his discretion, to defeat the will of Congress by transferring unused appropriations or appropriations from year to year and from time to time from one objective to another, within his department, which are affected by this reorganization plan——

Mr. BRICKER. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. BRICKER. By that power the Secretary of Agriculture could destroy or could completely limit the activities of the marketing section by transferring additional funds to some other section within his department. Is that correct?

Mr. HOLLAND. Certainly. That is, of course, what is permitted by provisions of the last section.

Mr. BRICKER. Mr. President, will the Senator yield further?

Mr. HOLLAND. I yield.

Mr. BRICKER. The Senator mentioned witnesses who appeared before the committee, including Dean Rusk, who was a member of the task force.

Mr. HOLLAND. He was chairman of the task force.

Mr. BRICKER. Were the other witnesses members of the task force?

Mr. HOLLAND. There were three other witnesses present who were members of the task force. They spoke for seven members out of eight. All eight members were in accord, but one member, who is an educator, felt he should not go further than the duties which he had already performed.

Mr. President, a moment ago I referred to the last section, section 5. It reads as follows:

SEC. 5. Incidental transfers: The Secretary of Agriculture may from time to time effect such transfers within the Department of Agriculture of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

Mr. President, witness after witness called attention to the fact that such power was unparalleled and that a legislative body could not properly surrender or delegate its powers to that degree. Speaking only as one Senator, regardless of what happens on this measure, the Senator from Florida wants it to be clearly and unequivocally stated on the RECORD that he feels no Senator can surrender so completely his power, duty, and prerogative to someone else, no matter how high of character that other person may be, because it is a personal duty and an obligation which I feel no Senator can evade.

Mr. BRICKER. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. BRICKER. I am very much interested in the extension service. It has rendered fine and constructive service in every relation it has had with State departments of agriculture. Under this proposed reorganization plan, it seems to me that the Secretary of Agriculture is empowered to cut off a portion of that service and transfer it from one section of the country to another section, to locate an agent in four counties, instead of in each one, as we have at the present time, or to do practically anything he desired with the extension service. Is that not correct?

Mr. HOLLAND. That is absolutely correct. He is given the specific power of redistribution, reallocation of personnel, records, or files, and money appropriations, not just now existing, but any to be made hereafter from time to time. Such power is sweeping, unprecedented, and unsafe to give. I do not feel that any Senator wishes to give to any public servant, no matter how devoted or how high of character he may be, the power to do such a monumental task as this, or to approve in advance whatever may be done.

Mr. BRICKER. Will the Senator yield for one more question?

Mr. HOLLAND. Yes.

Mr. BRICKER. Under this reorganization plan, the authority is complete in the Secretary of Agriculture except insofar as it may apply to agricultural corporations under the Department and to the Commodity Credit Corporation. Is that correct?

Mr. HOLLAND. The Senator is correct. One other small group is omitted from the operation of this law, and that is the group comprised of hearing examiners, which of course is not of any great importance.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. STENNIS. The Senator has not brought out just how the Extension Service is now governed. Will the Senator enlarge on the Extension Service?

Mr. HOLLAND. The Senator has asked a question which, of course, goes to the very heart of the functioning of the Department of Agriculture's Extension Service. It functions in a cooperative capacity with the States, and in complete harmony with the States. There is no other joint effort of the Nation which has brought more expressions of general satisfaction, and in which a number of responsibilities have been discharged cooperatively and effectively by the States with the Federal Government with so little friction or dissatisfaction.

Mr. STENNIS. Mr. President, will the Senator yield further?

Mr. HOLLAND. Yes.

Mr. STENNIS. As a matter of fact, that harmony and cooperation has extended over three-quarters of a century. Can the Senator think of any far-reaching agency which has set a record which exceeds that record?

Mr. HOLLAND. Certainly it is one of the finest agencies which we have in existence in our Nation, and I do not wish to jeopardize its existence.

Mr. STENNIS. The Extension Service and directors are now chosen jointly by the board of trustees of the institution where the service is located, with the Federal Government, of course, cooperating and consenting thereto. Is that correct?

Mr. HOLLAND. The Senator is correct.

Mr. STENNIS. Under this reorganization plan that authority will be invested in Washington. Is that correct?

Mr. HOLLAND. The Senator is correct. The Department of Agriculture could renew and continue that existing arrangement, or could adopt a different arrangement. The Senator will remember that only a few years ago it was suggested that certain educational functions of the Department should be completely transferred to another agency. The Senator will remember the furore which arose in agricultural sections at that time.

Mr. STENNIS. If the plan is not disapproved by the Congress, and it goes into effect, and the authority is exercised as outlined by the Senator from Florida, it would take a legislative act, passed by Congress and signed by the President, to change the situation?

Mr. HOLLAND. That is correct. The Senate would have given its approval to the doing of just that act.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. McCLELLAN. Mr. President, I ask the Senator if it is not correct to say that under the Reorganization Act we gave to the President the power to submit reorganization plans subject to Congress retaining the right to veto by a constitutional majority any plan which the President might submit reorganizing any department of the Government. In other words, we are now about to exercise the right to veto a plan? That is correct, is it not?

Mr. HOLLAND. If we should approve this hollow shell of a plan, we would in advance foreclose ourselves from disapproving anything that could be done legally under it.

Mr. McCLELLAN. That is what I wanted to ask the able Senator. If we approve this plan, we release and relinquish the very power of veto that we have reserved against the action of the President.

Mr. HOLLAND. And surrender.

Mr. McCLELLAN. Therefore, the Secretary of Agriculture, a Cabinet member, could do what Congress would not agree to have the President do under the original Reorganization Act.

Mr. HOLLAND. That is correct. We would do it knowing two things: First, that the Secretary of Agriculture in July of last year, in writing, said that he was not in accord with the principal provisions of the Hoover recommendation, and, second, that he a few days ago testified before the committee which the able Senator heads to the effect that up to this time he had no specific plan.

The PRESIDING OFFICER. The time of the Senator from Florida has expired.

Mr. HOLLAND. I yield the floor.

Mr. SCHOEPPEL. Mr. President, I yield 5 minutes to the Senator from Vermont.

Mr. AIKEN. Mr. President, I think all of us are aware of the fact that many definite reforms are needed in the Department of Agriculture, and the so-called Hoover Commission recommended several reorganizations. However, Reorganization Plan No. 4 does not assure us that any of the internal reorganizations of the Department as recommended by the Hoover Commission would be put into effect. This reorganization plan simply gives the Secretary of Agriculture authority to shuffle agencies, take over the powers which Congress has given various agencies within the Department of Agriculture, and to shuffle the funds which are appropriated to each agency within the Department of Agriculture.

It seems rather incredible, Mr. President, that the Committee on Expenditures in the Executive Departments has been unable to find out what changes are contemplated in the Department of Agriculture by the Secretary. It appears that if the Secretary felt that Congress would be in accord with the changes he would have made them known to the Members of Congress and to the Committee on Expenditures in the Executive Departments. Under this reorganization plan the Secretary of Agriculture is given not only the power to make changes or reforms within the Department of Agriculture, but he is given the power not to make reforms, and actually to controvert the acts of Congress.

Much fear has been expressed that something would happen to the Extension Service, which reaches into every home, almost, in rural America. So far as I know, we have had no assurance that the Extension Service would not be reorganized, and its functions given to other agencies of the Government. If that should happen, it would be a calamity to the farming areas of the United States.

So, Mr. President, I should dislike very much to give this power to the Secretary of Agriculture at this time, and have the Congress recess later this summer without any action having been taken by the Congress, only to find that as soon as Congress recessed, certain changes which would be objectionable to the Congress, such as dismemberment of the Extension Service, would be put into effect, at a time when Congress would be unable to make any correction, or to do anything about it.

As a matter of fact, there is no harm in delaying Reorganization Plan No. 4. In the meantime, the Secretary could give some evidence that he intended to put into effect the other reforms recommended by the Hoover Commission.

Not only is there no harm in delaying this plan until next winter, but there is a considerable element of danger in giving our approval to it at this time. For that reason I think we should practice safety first, and make sure that the great Department of Agriculture, which has had such a glorious tradition, is not reorganized in a way that would be harmful to the farm interests of the country, and objectionable to the Congress.

I hope that the resolution disapproving Reorganization Plan No. 4 will be approved by the Senate.

The PRESIDING OFFICER. The time of the Senator from Vermont has expired.

Mr. McKELLAR. Mr. President, I ask unanimous consent that the Senate vote on the pending resolution in 1 minute.

Mr. AIKEN. Following a quorum call?

Mr. McKELLAR. Following a quorum call. I will amend the request to that extent.

Mr. HUMPHREY. Mr. President, I wish to make a brief statement in reference to Reorganization Plan No. 4, and in reference to the report the committee has prepared, which I believe to be an excellent report, upon the part both of the majority and the minority.

The PRESIDING OFFICER. Does the Senator wish to make his statement under a reservation to object, or under an allotment of time?

Mr. HUMPHREY. I want to make my statement under a reservation to object.

The PRESIDING OFFICER. The Senator may proceed.

Mr. HUMPHREY. In a discussion of the resolution disapproving plan No. 4, as presented by the majority and the

minority, it will be noted that the main point of contention is that the plan as sent to the Congress by the President is a plan without a plan. That seems to be the main objection. I think it should be clear, however, that the proposal as submitted by the President, insofar as its objectives are concerned, is a constructive proposal. It meets the basic need of a reorganization of the Department of Agriculture. It was quite clear from the testimony presented before the committee that each and every affected interest group had some reason why it did not approve the plan, and those reasons were not always identical. In fact, many of them were contradictory.

The second main point that was brought up against the plan was that it altered the substantive law, and permitted the Secretary of Agriculture, by the transfer of funds, to alter the general policy and program as laid down by the Congress.

I believe we should support these reorganization plans. However, it appears to me that the executive branch of the Government would do a great service for the Congress if, when these plans are prepared, the officials of the agency affected would come to the interested standing committee of the United States Senate or House of Representatives and consult the committee. I for one am becoming just a little tired of having plans come before the Congress without those persons in the Congress who are familiar with the basic law of the land being given an opportunity to know what is going on.

The plan we are discussing was presented before the Senate Committee on Expenditures in the Executive Departments. I say, frankly, as a member of that committee, that I am not fully familiar with all the basic law pertaining to agricultural policies. Each Senator has a general knowledge, but the law pertaining to the many agencies and bureaus of the Department of Agriculture is complex, and oftentimes it is most difficult to be able to put one's finger on a particular provision at the moment. I should like to have the Secretary of Agriculture and the Director of the Budget, who presented the initial statement of the plan, come to the appropriate committees of the Congress, both of the Senate and the House, and discuss the over-all reorganization of the Department of Agriculture. I should like to have that done with the view in mind of following out the basic recommendations of the Hoover Commission insofar as the administrative structure is concerned.

I should like to solicit the attention of my colleagues to the minority report, which points out what those recommendations were, and I should like to solicit the particular attention of my colleagues to the importance of basic reorganization in the Department of Agriculture.

Mr. President, it is perfectly obvious that, in view of the lack of certainty of the plan as proposed, it does not withstand the test of a detailed plan of reorganization. It is general and all-inclusive. I believe it to be the duty of the executive department to do a little more than just send down plans. I think it is about time that the executive branch of the Government send down plans after the officials have consulted the individual Members of the Congress who are responsible for legislation. Once that is done, we are going to get a kind of reorganization that is definitely needed.

Mr. President, this is the view of one Member of the minority, and I think I am fair in saying that those of us who have taken time to prepare the minority report, primarily as a declaration and statement of policy, feel that the views therein expressed are sound views.

Mr. SCHOEPPEL. Mr. President, I ask unanimous consent that I may have incorporated in the body of the RECORD a statement which I intended to make on Senate Resolution 263, and I should like to have the statement appear before the final vote is taken.

There being no objection, Mr. SCHOEPPEL's statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR SCHOEPPEL IN FAVOR OF SENATE RESOLUTION 263

Mr. President, I am sure that many other Members of the Senate, who, like myself, are vitally interested in the welfare of rural America, were encouraged by and approved in principle the Reports of the Task Force and the Recommendations of the Hoover Commission relating to the Department of Agriculture.

The 16 recommendations contained in the report were vital to a substantial reorganization of the department. They would provide for a more efficient organization—elimination of duplication of effort—sound conservation policy, and most important, a real saving to the American taxpayer.

I join, Mr. President, with millions of our fellow citizens who endorse and praise the work of this great Commission. I do not feel that its effective and constructive work to establish a better operation of the affairs of Government should be lost by doing only lip service to its constructive recommendations.

Reorganization Plan No. 4 falls far short of accomplishing the objectives so needed within this important Department, which objectives were approved by four large farm organizations of the country.

Mr. President, four of the leading farm organizations of the Nation, the American Farm Bureau Federation, the National Grange, the National Council of Farm Cooperatives, and the National Cotton Council, are opposed to plan 4 as submitted.

Seven members of the task force of eight, which made the study of the Department of Agriculture and which was headed by Dean H. P. Rusk of the College of Agriculture of the University of Illinois, have filed a statement opposing the plan.

It should be noted that those with unselfish interests and those most affected by the administration of the plan are opposed to it.

The President, in his message to Congress, submitting the plan said: "The taking effect of the reorganization included in this plan may not itself result in a substantial saving." I believe he is right, for he has not included the provision for more efficient and economical administration.

If the Commission recommendations were adopted it is estimated that there would be an annual saving of $44,000,000, with an additional annual saving of $36,000,000, with the adoption of recommendations relating to credit agencies.

This plan, Mr. President, gives the Secretary a blank check authorizing him to reorganize the Department in any manner without any guide or restraint as to when or how it is to be done.

It was developed, during hearings before the Expenditures Committee, that he has no plan.

It is a matter of record that he is opposed to, or noncommittal concerning, the recommendations, with the exception of the creation of new top-level positions.

I am opposed to granting this directionless discretion. I submit that this resolution should be adopted and that the President should then submit a plan based on the report of the Commission. The public support of the recommendations of the Commission, Mr. President, is based upon their substance. When plans are submitted to the Congress, under the guise of implementing the recommendations, when in fact they do not, we should reject them and let the people know why they have been rejected. It is time to put an end to political expediency as a guide to great decisions. The question here is, Shall we bow to ineffectual and political maneuvers, or shall we insist upon that which we know is best for the country and that which we know our people support?

It is my belief that plan 4 ought to be rejected by the Congress at this time for the following reasons:

1. Adoption of plan 4 now might well forestall the type of sound, money-saving reorganization which the Hoover Commission recommended and which the farm population of the United States will endorse.

2. Plan 4 is opposed by major farm groups of the Nation which are fearful of the piecemeal and arbitrary character of the plan 4 approach to reorganization.

3. Plan 4 delivers to the Secretary of Agriculture an authority and power not coupled with a clear directive to do a real and responsible job of reorganizing his Department.

4. Plan 4 removes from subordinates in the Department responsibility spelled out in legislative act without vesting such specific responsibility and instructions in the Department head.

Let us look at some of the difficulties of the plan 4 approach to reorganization.

Plan 4 vests new powers in the Secretary of Agriculture, but it offers neither assurance nor promise that such powers will be used to effect greater efficiency, better service to the farmer, or more economy to the taxpayer.

The expressed attitude of the present Secretary, reflected in his public utterances on the recommendations of the Hoover Commission and his testimony before the Expenditures Committee, gives no indication that the passage of plan 4 will further the cause of reorganization of the Department along practical lines as set forth by the Hoover Commission or the task force.

To be effective in carrying out Commission suggestions, plan 4 must be accompanied by a strong desire by the Secretary to put his Department in order; or else it must have a clear record of congressional intent to give it effectiveness. Passage of plan 4 now assures neither of these forces for departmental reform.

Plan 4, in and of itself, does not save the American people one dime. Indeed, it authorizes new employment of an administrative assistant secretary and two assistant secretaries. (Only one was recommended by the Hoover Commission.)

Plan 4, in and of itself, assures no better service to the farmer. None of the specific suggestions of the Hoover Commission for departmental reform are spelled out.

Plan 4, in and of itself, would let the Secretary of Agriculture write his own ticket in the Department. There is nothing in the record to indicate that he would use his new authority to effect a streamlining of the sprawling bureaucracy which the Hoover Commission task force has described.

What would plan 4 bring about?

It would transfer to the Secretary of Agriculture "all functions of all other officers of the Department and all functions of all agencies and employees of such Department."

Specifically exempted from this sweeping language are the corporations of the Department, the advisory board of the Commodity Credit Corporation, and the hearing examiners of the Department.

It is claimed by the proponents of plan 4 that it is partial implementation of the recommendations of the Hoover Commission.

With full emphasis on the partial, such a claim is true only in a very technical sense. The Commission does not recommend clear lines of authority from the President down through his department heads.

But in this plan 4 approach to reorganization, the sins of omission are of greater consequence than the Commission suggestions that would be acted upon.

There is nothing in plan 4 that treats directly the general findings of the Commission which I summarize briefly for its highlights:

"In the last 20 years the Department of Agriculture has expanded from about 22,000 employees to over 82,000. Its expenditures during this period have increased from $25,000,000 to over $834,000,000. Instead of a well-integrated, efficient organization, the Commission found a loose confederation of independent bureaus and agencies with authority diffused among 20 different offices which report directly to the Secretary. The Commission found wasteful duplication of effort and irritating policy conflicts within the Department, between the Department and State and county farm services, and between the Department and other Federal agencies.

"EXAMPLES

"(1) Ten field services of the Department of Agriculture, with a multitude of county advisory committees, work at the county level. By setting up one advisory committee in each county, the Government could save about $4,300,000 per annum.

"(2) In one Georgia cotton-producing county, the Commission found 47 employees attached to seven separate field services of the Department working with only 1,500 farmers. A fruit and grazing county in the State of Washington had 184 employees of separate field services working with 6,700 farmers. A Maryland dairy county had 88 Department employees working with less than 3,400 farmers.

"(3) A Missouri farmer received varying advice on the application of fertilizer from five different agencies.

"(4) Thirteen farm credit agencies, four of which are in liquidation, have $3,500,000,000 on loan, and lending authorizations of nearly $7,000,000,000. Simplification of this unwieldy agricultural credit structure would save $36,000,000 a year in administrative costs alone.

"(5) Producers, manufacturers, and retailers of food and drugs are hopelessly confused by conflicting regulations of the Department of Agriculture, the Federal Security Agency, and the Federal Trade Commission. Although the requirements for labeling and advertising of foods and drugs should be almost identical, labeling is regulated by the Federal Security Agency and advertising by the Federal Trade Commission. A disinfectant may be subject to diverse regulations of the Federal Security Agency and the Department of Agriculture.

"(6) Ranchers who run livestock on both national forest pastures and public grazing lands must obtain separate permits with different terms and conditions from agencies of both the Agriculture and Interior Departments.

"(7) Two sets of regional and local forest officers representing the Agriculture and Interior Departments carry on conflicting and duplicating activities on intermingled or adjacent timber land.

"MAJOR RECOMMENDATIONS

"(1) The organization of the Department should be thoroughly overhauled at the Department, State, county and farmer levels to eliminate costly duplication of effort and existing conflicts in policy.

"(2) Regulatory functions relating to food products should be transferred to the Department. Regulation of drugs should be the function of a proposed public health agency.

"(3) Major land agencies should be grouped in the Department of Agriculture."

Plan 4 gives no answer to the problems which the Commission raises. The net effect of plan 4 would be to strengthen the position of the present Secretary, although he is clear in his opposition to many phases of the sound reorganization program advocated by the Commission after much careful consideration.

On July 8, 1949, the Secretary of Agriculture addressed a letter to the chairman of the Expenditures Committee, setting out his views on the recommendations of the Hoover Commission. The letter was introduced into the CONGRESSIONAL RECORD of July 12, 1949, and appears on page 9466.

In stating his views, the Secretary gave unqualified endorsement to the creation of new, top-level positions in the Department. The remainder of the letter was opposed to, or noncommittal concerning, all other recommendations.

Certainly no expression of opinion contained in that letter warrants giving to the Secretary of this time the considerable authority inherent in plan 4.

A far wiser course, I am sure, would vote the rejection of plan 4 at this time.

Mr. President, I would suggest a course of action to the Senate. I would propose the rejection of plan 4 and the undertaking of consideration on S. 2055, which was introduced by Senator MCCARTHY and prepared, I believe, by the citizens committee to effect some of the major recommendations of the Commission. Or the approach as set forth in the statement of seven members of the task force as follows:

"In order to strengthen the hands of the Secretary in dealing with reorganization of vested interests, safeguard the basic principles set forth in section 2 (a) of the Reorganization Act of 1949, and assure that insofar as possible under existing laws the Comission's recommendations will be adhered to, we recommend that Congress return Reorganization Plan No. 4 of 1950 to the President with the suggestion that he resubmit it after adding to section 2 the following sentence:

" 'In carrying out the provisions of this section, the Secretary shall be guided by the purposes expressed in section 2 (a) of the Reorganization Act of 1949 and by the plan of organization proposed for the Department of Agriculture by the Commission on Organization of the Executive Branch of the Government'."

I do not hold that the Hoover recommendations are the last and final word on organization of the Department of Agriculture. They do offer a definite and reasonable pattern for the discussion of Congress and the Executive in seeking better order.

My plea is that the Congress shall not increase the power of the Secretary to effect reorganization until such time as it has heard and considered fully the reorganization which the Secretary plans to accomplish. If he is going to follow the Hoover recommendations, the Congress should be assured of that fact. If he is going to reject most of the Commission's suggestions, then he should spell out the course which he intends to pursue.

I am opposed to the plan 4 approach to reorganization of the Department of Agriculture because it is vague in its instructions and dangerous in its vagueness.

I want this Congress to do more than to authorize new positions and to increase the powers of the Secretary for good or for ill. I want this Congress to take positive action that will guarantee a constructive effort to reorganization along the lines suggested by the Hoover Commission. As I read the letters of hundreds of my constituents, I gather that they desire the same end.

Reorganization ought not be attacked in a piecemeal, half-hearted manner. We should take action that will assure sound reorganization now and provide an efficient and economical basis for future operation. A job half done or poorly done at this time is worse than no action at all.

The distinguished Senator from New Mexico, the former Secretary of Agriculture, has made these pertinent remarks concerning reorganization of the Department.

"What, to me, is important is that we decide to press for a pattern of simplification in the Department of Agriculture. When we examine the committee's study of that Department, we observe that any activity heretofore carried on, now being conducted, or needed in the future will fit into that pattern under one of the eight units. It permits the Department to care for new developments in an orderly manner.

"If there is no such pattern and a new law such as the Research and Marketing Act is passed, there is no place for the action agency and a reorganization is indicated. Reorganizations are bad, even if required. Employees become worried about their jobs. Morale is at a low point for months.

"The pattern proposed for the Department should make unnecessary any sweeping reorganizations in the future. There will be adjustments, yes—maybe some adjustment every year—but there will not need to be any more basic changes. Assurance that permanence of that nature could be given to the structure of the Department would be helpful to those who administer its programs as well as those who work far down the line in its services and agencies."

For the reasons I have outlined, I hope the Senate will pass the resolution to reject Plan 4 and will undertake hearings on S. 2055.

We should act in this matter with knowledge of what we are doing and with reasonable assurances of the ultimate success of our efforts.

There is no such knowledge or assurance in the plan 4 approach.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Tennessee that the vote on the pending question be taken in 1 minute?

Mr. RUSSELL. Mr. President, reserving the right to object, did the request contemplate a quorum call?

The PRESIDING OFFICER. There was no quorum call included in the request.

Mr. MCKELLAR. I will include it.

Mr. RUSSELL. I would prefer that the distinguished Senator from Tennessee included it.

The PRESIDING OFFICER. The Senator from Tennessee amends the unanimous-consent request to include a quorum call preceding the vote. Is there objection?

Without objection, the unanimous-consent request, as modified, made by the Senator from Tennessee [Mr. MCKELLAR], is agreed to.

Mr. LUCAS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Hill	Martin
Anderson	Hoey	Maybank
Brewster	Holland	Mundt
Bricker	Humphrey	Myers
Bridges	Ives	Neely
Butler	Jenner	Robertson
Byrd	Johnson, Colo.	Russell
Capehart	Johnson, Tex.	Saltonstall
Chapman	Johnston, S. C.	Schoeppel
Connally	Kem	Smith, Maine
Cordon	Kerr	Smith, N. J.
Darby	Kilgore	Sparkman
Donnell	Knowland	Stennis
Dworshak	Lodge	Taft
Eastland	Long	Thye
Ecton	Lucas	Watkins
Ellender	McCarthy	Wherry
Ferguson	McClellan	Wiley
Fulbright	McFarland	Williams
George	McKellar	Young
Gurney	McMahon	
Hendrickson	Malone	

The PRESIDING OFFICER. Sixty-four Senators have answered to their names. A quorum is present.

The question is on agreeing to Senate Resolution 263. [Putting the question.] A majority of the authorized membership of the Senate having voted in the affirmative, the resolution is agreed to.

Mr. McKELLAR. Mr. President, I ask unanimous consent to have printed at this point in the RECORD, as a part of my remarks, several telegrams received by me in regard to the matter which has just been before the Senate.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

MEMPHIS, TENN., *May 18, 1950.*

K. D. MCKELLAR,
Senate Office Building:

Please support and vote for Senate Resolution 263 to disapprove plan 4 for reorganizing Department of Agriculture.

V. ALEXANDER,
Executive Secretary, Mississippi Valley Interior Cotton Compress and Cotton Warehouse Association.

MEMPHIS, TENN., *May 18, 1950.*

Senator K. D. MCKELLAR,
Senate Office Building:

I sincerely hope you will support and vote for Senate Resolution 263 to disapprove plan 4 for reorganizing Department of Agriculture.

NORRIS BLACKBURN.

NEW ORLEANS, LA., *May 18, 1950.*

Senator KENNETH D. MCKELLAR,
Senate Office Building:

Will appreciate if you will support Senator MCCLELLAN'S resolution with respect to Reorganization Plan 4; this pertains to Department of Agriculture. All your Memphis friends looking forward this action your part.

Regards,

SID Y. WEST.

SOME FACTS FOR MR. TRUMAN

Mr. KEM. Mr. President, unfair foreign competition, created by dollars taken from the American people under the power to tax, is paralyzing large segments of the industry of the United States.

According to the Bureau of the Census, there are now more than 3,500,000 workers unemployed in this country. The Department of Labor of Missouri advises me that during the period of 4 months ending May 1, 1950, more than 114,000 workers in Missouri filed unemployment insurance claims for the first time.

BILLIONS OF DOLLARS TAKEN FROM AMERICAN PEOPLE BY TAXING POWER ARE BEING USED TO BUILD CHEAP LABOR, FOREIGN COMPETITION

Last year ECA Administrator Hoffman was warned that by using Marshall-plan money to build factories overseas he might put a lot of industry in this country out of business. Mr. Hoffman's comment was:

Sir, I cannot tell you how little concerned I am about European competition.

The administration has continued to use billions of Marshall-plan dollars to build up industries in western Europe. According to Mr. Hoffman—

Industrial production has not merely been lifted to the prewar level but stands 20 percent above it.

The products of these European industries are now competing with those produced by American workers. Marshall-plan countries are now dumping their products on markets in the United States and in overseas markets formerly supplied by us. The Truman administration has given hearty approval.

ECA Administrator Hoffman recently said:

We must sell less to and buy more from Europe.

He wants American producers to give up more of their overseas business and forfeit more of their markets here at home to foreign producers.

I should like to invite the attention of the Senate to the effect of this program as it becomes apparent in my own State of Missouri. I fear the instances which I shall cite are typical illustrations of the disastrous effects of the foreign competition blight that may soon spread over the country—from Maine to California.

WIDESPREAD UNEMPLOYMENT IN MISSOURI SHOE INDUSTRY

Mr. President, during the last several days I have received over 600 postals and letters from workers in the important shoe industry in my State, protesting bitterly that foreign competition is rapidly forcing increasing numbers of them into full-time or part-time unemployment. I have brought these protests into this Chamber. They now lie on my desk. Perhaps some of my colleagues may be interested to see how men and women feel when they are forced into unemployment through the activities of their own Government. Senators are welcome to inspect these communications; they are here.

Mr. President, shoes turned out by cheap labor abroad are being dumped on the American market at prices lower than comparable shoes can be manufactured in this country.

Several Marshall-plan countries are busily dumping shoes on the American market. In 1949, Great Britain and Italy exported more than $1,600,000 worth of boots and shoes to the United States. In Britain the average hourly wages of shoe workers amount to only 35 cents an hour, less than half the wages paid to American workers. In Italy the wages paid to highly skilled shoe workers amount to only 28 cents an hour.

While this is going on, the administration is pouring millions of dollars into Europe to build up the shoe industry there. Seventy-three million dollars worth of hides, skins, and leather have been given to Britain, Italy, and other Marshall-plan countries for manufacture into shoes, boots, and other articles.

A complete shoe factory is being sent by the ECA as a gift to Trieste. This factory was formerly operated by a Boston shoe concern, which was forced to close down because of financial difficulties. Now, under the Marshall plan, the factory is being transferred to Trieste, so that it can employ cheap labor. Most of the shoes which it will turn out are expected to go into the markets of the United States.

Mr. MARTIN. Mr. President, will the Senator from Missouri yield, or would he prefer to complete his remarks before yielding?

Mr. KEM. I would prefer to complete a few remarks first, and then I shall be glad to yield to my able friend, the Senator from Pennsylvania.

Mr. MARTIN. Very well.

Mr. KEM. Mr. President, shoes made in Communist-controlled Czechoslovakia are being shipped into the United States to sell to importers at costs less than the American manufacturer must pay for leather and other materials alone—with no allowance for the wages paid American workers. Trade estimates indicate that over 1,000,000 pairs of Czechoslovakian shoes will be imported into the United States in 1950. Hats are coming into the United States in great quantities from Czechoslovakia, at a time when the American hat industry is already staggering from foreign competition. Such commerce encourages totalitarian labor methods, undermines American prosperity, and plays right into Stalin's hands.

Mr. President, is this a continuation of the policy of appeasement of communism begun at Yalta, continued at Potsdam, which blossomed into full bloom in China?

But that is not all. On Thursday, April 13, 1950, the State Department announced that negotiations would begin with foreign countries in September of this year to reduce the tariff on approximately 2,500 items imported into this country including boots, shoes, or other footwear. This means, if carried out, a further flood of cheap-labor shoes on the American market.

GIVE-AWAY PROGRAM HAS CAUSED THOUSANDS OF LEAD MINERS TO BE THROWN OUT OF WORK

The lead-mining industry regularly affords employment for thousands of Americans, not only in Missouri, but in many other States. This important American industry, vital in time of war, is now threatened with near extinction by competition from abroad—competition built up by gifts of Marshall-plan dollars.

Last year as much lead was imported into this country as was produced here. As a result, the market price for lead has dropped from 21½ cents in March

1949, to about 12 cents a pound at present.

So far, the unfavorable price situation in lead has resulted in widespread unemployment in the Missouri lead belt and in other parts of the country.

Last year, Germany and Italy dumped nearly $4,000,000 worth of lead on the American market. These World War II enemies of ours have received large amounts of aid under the Marshall plan, including $18,000,000 worth of construction, mining, and conveying equipment.

Last December the ECA announced that it would use $3,600,000 in Marshall-plan funds to modernize and expand lead and zinc mining in French Morocco. The program includes the development and mechanization of the mines, the construction of an entirely new mill including a crushing plant, and the addition of grinding and flotation facilities. In addition, $1,140,000 worth of American equipment has been furnished by ECA to aid in the search for new deposits of metals, including lead. Last year, French Morocco exported more than 10,000,000 pounds of lead to the United States. With the ECA now furnishing funds to modernize and expand the lead mines there, the amount exported this year to the United States promises to be even greater. The result is easy to foresee—more of our miners will, as Mr. Hoffman advises, be looking for something else to do.

FARM PRODUCTS FROM OVERSEAS, EVEN FROM BEHIND THE IRON CURTAIN, ARE INVADING OUR MARKETS, WHILE DISASTROUS SURPLUSES CONFRONT OUR FARMERS

Our farmers are being squeezed tighter and tighter by competition from abroad. Last fall, ECA Administrator Hoffman and Secretary of Agriculture Brannan permitted the Socialist Government of Great Britain to use $175,000,000 of Marshall-plan funds to buy Canadian wheat, at a time when wheat is running out of our ears here at home.

In 1949, 2,500,000 pounds of dried eggs were imported into the United States from China. This was about eight times as many dried eggs as were imported from China in 1948. These eggs were dumped on the American market—with the approval of the Administration—even though the Government now has about $100,000,000 worth of dried eggs in storage under the farm program.

Last year the Administration permitted more than a million pounds of Polish hams to be imported into the United States. Poland, I need not remind the Senate, is behind the iron curtain.

Five million pounds of cheese are to be exported to this country from New Zealand, with the consent of our own State Department. This is equivalent to the output of all 52 cheese plants in Missouri for nearly a month. Some 6,000,000 gallons of United States milk will be replaced by the imports.

At the same time this is going on, our dairy industry is plagued with surpluses. Millions of bushels of potatoes are shipped into this country from Canada to take advantage of our prices, supported by our Government money, while our own potatoes are being destroyed in the field.

The State Department has announced that as part of its new tariff-reduction proposal, it will seek tariff cuts on a large number of farm products being imported into this country, including cream, cheese, meats—fresh, chilled, and frozen, and cotton.

UNITED STATES MAY SUFFER AN ECONOMIC COLLAPSE IF TRUMAN ADMINISTRATION CONTINUES ITS PRESENT PROGRAM

The administration seems to believe that unless Government spending for foreign aid continues unabated, the country will face a depression. Mr. President, if the Truman program to build up foreign industries abroad continues unchecked, if the administration continues to use American dollars to create socialistic cartels in western Europe, if American workers are forced to compete with cheap foreign labor, this country may suffer an economic collapse. I urge my colleagues in this body, and I urge them very earnestly, to give this situation thoughtful consideration before the Marshall plan appropriation bill leaves this body.

Mr. Truman says he likes facts. Here are facts, Mr. President. Please think them over.

Many American workers, heavily overburdened with direct and hidden taxes, now are being deprived of their jobs by the give-away policy of the Truman administration. I have opposed, and shall continue to oppose, this ruinous program.

Mr. MARTIN and Mr. BREWSTER addressed the Chair.

Mr. KEM. I yield first to the Senator from Pennsylvania, after which I shall yield to my good friend from Maine.

Mr. MARTIN. Mr. President, I have been very much interested. I did not realize that shoes were being imported to such an extent. Does the very able and distinguished Senator realize that importations of glass, china, and pottery have almost shut down several industries of that character?

Mr. KEM. I did not realize it. Those facts have not been brought to my attention. I mentioned industries which had been brought to my attention by people in Missouri, who have written to me complaining and protesting about the situation.

Mr. MARTIN. Does the Senator realize that the importation of Swiss watches is badly crippling the watch industry of America? I should like to comment that the precision workers, men who work in precision plants during wartime, are largely men who are in peacetimes engaged in the watch industry.

Mr. KEM. I suppose such importations had something to do with the closing of the Waltham Watch Co. in Waltham, Mass., recently.

Mr. MARTIN. They were very much the reason for it.

Mr. KEM. I remember seeing in the press not long ago that the New Haven Clock Co., an industry which had been established in New Haven, Conn., for about a hundred years, had been closed.

Mr. MARTIN. Mr. President, will the Senator yield further?

Mr. KEM. I am glad to yield.

Mr. MARTIN. The Senator mentioned the importation of hats. Does the Senator realize, for example, that Canada can export hats to America, but that the American hat industries cannot send hats into Canada?

Mr. KEM. I believe the same thing is true of many other articles—in the case of Great Britain, France, and Italy, for instance. I am told that we formerly had a very profitable market for shoes in Great Britain. We now export only limited quantities of shoes to Great Britain, which country is in turn sending vast quantities produced by cheap labor into the United States, absorbing our own markets.

Mr. MARTIN. Mr. President, if the Senator will yield for a further question, is it not true that the manufacturing concerns of America that are being most seriously damaged are the small industries, industries with but one factory, not a chain of factories, such as the large corporations can maintain?

Mr. KEM. I think that is undoubtedly true, because they have not had resources with which to withstand the drain of this unfair foreign competition.

Mr. MARTIN. If I may be permitted to make this comment, that applies to glass, pottery, chinaware, shoes, and other articles of similar character. For example, the Stetson Hat Co., which is a large concern, has been able to build a factory in Canada, so it can continue its business in Canada. But if it were not a large concern, it would be unable to do that.

If the Senator will yield for another question, did he happen to be on the floor recently when the able junior Senator from West Virginia [Mr. NEELY] discussed the question of the importation of oil, which is destroying the markets for coal, and has put, I think the Senator said, about 35,000 coal miners out of employment thus far?

Mr. KEM. Yes; I heard that. It so happens that the distinguished Senator from West Virginia today showed me a newspaper clipping indicating that employment conditions in the coal industry of his State and of adjoining States were rapidly becoming worse.

Mr. MARTIN. Is it not also true that in the case of men who are employed in shoe factories and glass factories and in coal mines, it is impossible for them to find other jobs, because of the fact that they are particularly skilled as craftsmen in one certain line?

Mr. KEM. I think it is certainly true. I do not believe Mr. Hoffman's advice to them that they find something else to do is very adequate, under the circumstances, because after a man has become a skilled worker, following years of apprenticeship and years of training, he does not find it very easy to adapt himself to another craft or to find employment in some other field of activity.

Mr. MARTIN. Mr. President, if I may be permitted to do so, I should like to make this observation: We talk about the American way of life which provides for giving a man an opportunity for gainful employment. He does not want something from the public for nothing. That is particularly true with regard to spe-

81ST CONGRESS
2D SESSION

S. RES. 263

IN THE SENATE OF THE UNITED STATES

APRIL 24 (legislative day, MARCH 29), 1950

Mr. HOLLAND (for himself, Mr. SCHOEPPEL, Mr. JOHNSTON of South Carolina, and Mr. THYE) submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, favorably

MAY 18 (legislative day, MARCH 29), 1950

Considered and agreed to

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 4 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 263

RESOLUTION

Disapproving Reorganization Plan Numbered 4 of 1950.

By Mr. HOLLAND, Mr. SCHOEPPEL, Mr. JOHNSTON of South Carolina, and Mr. THYE

APRIL 24 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950
Reported favorably

MAY 18 (legislative day, MARCH 29), 1950
Considered and agreed to

81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 509

REORGANIZATION PLAN No. 5 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 5 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF COMMERCE

MARCH 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 5 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of Commerce. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 5 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Administrative Assistant Secretary of Commerce. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 5 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF COMMERCE

Section 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Commerce all functions of all other officers of the Department of Commerce and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Commerce, nor to the functions of the Civil Aeronautics Board, of the Inland Waterways Corporation, or of the Advisory Board of the Inland Waterways Corporation.

Sec. 2. *Performance of functions of Secretary.*—The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Commerce of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

Sec. 3. *Administrative Assistant Secretary.*—There shall be in the Department of Commerce an Administrative Assistant Secretary of Commerce, who shall be appointed, with the approval of the President, by the Secretary of Commerce under the classified civil service, who shall perform such duties as the Secretary of Commerce shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

Sec. 4. *Incidental transfers.*—The Secretary of Commerce may from time to time effect such transfers within the Department of Commerce of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

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81ST CONGRESS
2D SESSION

S. RES. 259

IN THE SENATE OF THE UNITED STATES

APRIL 17 (legislative day, MARCH 29), 1950

Mr. WILEY submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 5 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 259

RESOLUTION

Disapproving Reorganization Plan Numbered 5 of 1950.

By Mr. WILEY

APRIL 17 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

Bankruptcy Act; without amendment (Rept. No. 1495).

By Mr. FERGUSON, from the Committee on the Judiciary:

S. J. Res. 138. Joint resolution requesting the President to issue a proclamation designating May 30, Memorial Day, as a day for a Nation-wide prayer for peace; without amendment (Rept. No. 1496).

By Mr. HAYDEN, from the Committee on Rules and Administration:

S. Con. Res. 35. Concurrent resolution requiring committee reports to include estimates of the probable cost of proposed legislation; with amendments (Rept. No. 1494).

By Mr. O'MAHONEY, from the Committee on Interior and Insular Affairs:

H. R. 1726. A bill to authorize the Secretary of the Interior to convey to the city of Hot Springs, Ark., a perpetual easement for the construction and operation of a water-main pipe line; without amendment (Rept. No. 1500);

H. R. 3494. A bill to authorize the Secretary of the Interior to transfer a building in Juneau, Alaska, to the Alaska Native Brotherhood and/or Sisterhood, Juneau (Alaska) Camp; without amendment (Rept. No. 1499);

H. R. 6406. A bill providing procedure for claimants of mining claims in the United States obtaining credit for assessment work performed during the year ending July 1, 1949, under the provisions of Public Law 107, Eighty-first Congress; without amendment (Rept. No. 1498); and

H. R. 7302. A bill to amend the act of July 14, 1943, relating to the establishment of the George Washington Carver National Monument, and for other purposes; with an amendment (Rept. No. 1497).

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. THYE:

S. 3434. A bill for the relief of Mikiko Anzai; to the Committee on the Judiciary.

By Mr. ECTON:

S. 3435. A bill authorizing the Secretary of the Interior to issue a patent in fee to Frederick Knows Gun; to the Committee on Interior and Insular Affairs.

By Mr. MUNDT:

S. 3436. A bill to provide for Government guarantee of loans made to Indians for the purchase or improvement of farms and farm equipment; to the Committee on Interior and Insular Affairs.

By Mr. McMAHON:

S. 3437. A bill to amend the Atomic Energy Act of 1946; to the Joint Committee on Economic Energy.

By Mr. HUMPHREY:

S. 3438. A bill to amend the act of July 6, 1945, as amended, with respect to automotive-equipment maintenance payments to special-delivery messengers in post offices of the first class, and for other purposes; to the Committee on Post Office and Civil Service.

REORGANIZATION PLAN NO. 5 OF 1950

Mr. WILEY. Mr. President, I submit for appropriate reference a resolution in relation to Reorganization Plan No. 5, and I ask unanimous consent that I may have 2 minutes in which to make a brief statement in relation to it.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Senator is recognized for 2 minutes.

Mr. WILEY. The resolution reads as follows:

Resolved, That the Senate does not favor Reorganization Plan No. 5 of 1950 transmitted to Congress by the President on March 13, 1950.

Mr. President, this morning I submitted a resolution to the Committee on the Judiciary, and the members of the committee have authorized me to transmit it to the Senate with the committee's approval. I wish to say definitely that in my humble opinion the resolution should be agreed to, or the President should recall his Plan No. 5 and take from the scope of the plan the portion which would place the Patent Office, with all its functions, in the hands of the Secretary of Commerce.

Mr. President, on March 13, there was transmitted to the Congress by the President, Reorganization Plan No. 5, vesting practically all powers of the subordinate units of the Department of Commerce in the Office of the Secretary of Commerce. This plan, like the other plans, will go into effect automatically unless there is negative action on it by a majority of both the Senate and House of Representatives.

It is with extreme reluctance, but with a firm conviction that this plan must be rejected, that I am introducing today a resolution for the disapproval of Reorganization Plan No. 5. The reason for introduction of the resolution is that the United States Patent Office, which since the founding of the Republic has been entirely independent, would be subject to extreme political interference and domination if the Secretary of Commerce were to be given all inclusive authority over it, as well as over other units of the Department.

I feel, therefore, that Reorganization Plan No. 5 should be rejected, because unless we do so we shall be giving a blank check to some future Secretary of Commerce to reorganize the judicial and quasi-judicial duties of the Patent Office, with potentially grave harm resulting to American free enterprise system. I am indeed sorry that the President did not see fit to exempt the Patent Office from Plan No. 5 just as he wrote in specific exemptions for hearing examiners employed by the Department of Commerce, for the Civil Aeronautics Board, for the Inland Waterways Corporation, and for the Advisory Board of the Inland Waterways Corporation.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. WILEY. Mr. President, I ask that I may have two more minutes, in order to complete my statement.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Senator is recognized for two additional minutes.

Mr. WILEY. Mr. President, the American people have a right to ask: Why was not the Patent Office specifically excluded from the plan? Are not its functions equally independent, equally crucial, as those of the four units to which I have just referred?

The realization of the potentially grave consequences to the American patent system has been only slowly dawning on the American people. I do, however, have in my hand several expressions from leading patent groups.

I ask, therefore, Mr. President, unanimous consent at this time, that there be printed in the body of the CONGRESSIONAL RECORD, the text of a release issued from my office stating why I am seeking the rejection of plan No. 5; the text of a resolution adopted by the board of managers of the Chicago Bar Association, on the unanimous recommendation of its committee on patents, trademarks, and unfair competition, together with the text of a memorandum on the resolution and the text of a resolution adopted by the board of managers of the American Patent Law Association at its meeting on April 10, 1950.

From what I have been able to ascertain from those groups in the American patent profession, which have already formed opinions on plan No. 5, they are unanimously opposed to its adoption.

Time is short, Mr. President, and I believe hearings should be promptly held so that the opponents of this plan will have time to testify and so that the Senate and House will have time to take specific action, lest the plan go into effect by default.

There being no objection, the release, resolutions, and memorandum were ordered to be printed in the RECORD, as follows:

Another governmental reorganization plan drew congressional fire today when Senator ALEXANDER WILEY, Republican, of Wisconsin, announced he would move to defeat Reorganization Plan No. 5 which would confer broad new powers on the Secretary of Commerce over the United States Patent Office.

The Wisconsin Senator will introduce today a resolution specifically rejecting the plan which he contends "could be the opening step in the crippling of the patent system of our country by laying it open to political domination of the worst sort by some unscrupulous Secretary of Commerce or subordinate in the future."

Senator WILEY stated that there is grave suspicion throughout America that plan No. 5 like other reorganization plans is "being used as a guise and as a cloak behind which the President and his cohorts are attempting to foist their notions of a huge centralization of power in big government.

REJECTION ACTION NOT CONTRARY TO HOOVER REPORT

Senator WILEY, ranking Republican on the Senate Judiciary Committee, pointed out that his action is in no sense in contrast to a Hoover Commission suggestion because (a) the Commission made no studies in the Patent Office; (b) it made no recommendations on the Patent Office even though former President Hoover, as an ex-Secretary of Commerce, was deeply familiar with Patent Office machinery."

EFFECT ON UNITED STATES LIVING STANDARD

Senator WILEY added: "The potentialities for harm to the American system of private invention are tremendous because some future unscrupulous Secretary of Commerce could establish rules and regulations over the conduct of the Patent Office which could in effect paralyze American industry by causing chaos in the patent system, threatening billions of dollars in private investments.

"I hope that no such situation will ever arise. But we have learned not to trust in the pious promises of bureaucrats, that they will not misuse a power rashly conferred on them by the Congress. America's entire standard of living is due in principal part to the patent system. Conferring these extraordinary powers on the Secretary of Commerce over the Patent Office can indeed

therefore endanger our entire standard of living.

"The following factors should be borne in mind in appraising Reorganization Plan No. 5's effect on the Patent Office.

"REORGANIZATION PLAN WOULD SAVE NO MONEY

"1. No one contends that the present plan will result in economies insofar as its all-inclusive authority over the Patent Office is concerned. In other words, the Hoover Commission reports were designed to save money, but this particular plan is not scheduled to save a dime as it relates to the Patent Office.

"2. The present able Secretary of Commerce has already indicated that he personally doubts the wisdom of granting so much authority upon him insofar as the Patent Office is concerned. In fact, he has issued a directive to maintain the judicial and quasi-judicial independence of the machinery of the Patent Office, but this directive has no legal binding effect upon him or upon his successors.

"WHY WAS PATENT OFFICE OMITTED AS AN EXCEPTION TO PLAN?

"3. While there is no doubt that there is great room for reorganization of overlapping units of the Department of Commerce, there is grave apprehension over the significant omission of the Patent Office from the list of units which are specifically exempted from the reorganization plan. I invite attention to the fact that the Civil Aeronautics Board and the Inland Waterways Corporation specifically are exempted from Reorganization Plan No. 5, yet the Patent Office is not so exempted. Why was this vital unit not exempted specifically?

"POLITICAL TRICKERY POSSIBLE IN PATENT OFFICE

"4. What the Congress would be doing in effect, would be to give the Secretary of Commerce a blank check now or in the future to insert political considerations into what has always been the judicial and quasi-judicial functions of the Patent Office. There is almost unlimited possibility for political trickery in Patent Office machinery, if politicians ever got control of its works. For example, the Secretary of Commerce acting directly or through a subordinate could refuse to grant patents to individuals or corporations according to his own discretion or could exercise favoritism in the granting of patents.

"While the courts could still review adverse decisions by the Patent Office, the courts could be bogged down in literally hundreds of appeals. It should be noted that there is no judicial review of the granting of patents, but only in the final refusal by the Patent Office. And it should be noted, too, that there is no statutory obligation on the Commissioner of Patents to act upon an application within a given time. Thus, patents of politically disfavored individuals could be pigeonholed practically indefinitely and an applicant could not complete action by mandamus proceeding in the Federal court.

"In addition, there is tremendous potentiality for conditioning the granting of patents on the basis of compulsory licensing or royalty-free licensing according to the whims of a politician in control.

"From all the above, which may seem alarmist to some individuals but as realistic to the majority of observers, we note that there is no justification for transferring the quasi-judicial Patent Office to the Secretary of Commerce. It would be like transferring, let us say, the independent Court of Claims to the Attorney General's jurisdiction.

"CONCLUSION

"Ours is and must remain a Government of separation of powers.

"It is indeed unfortunate that the only way that Congress can protect the integrity of the Patent Office is by disapproving plan No. 5 in its entirety, for the Reorganization Act does not permit congressional amendments to any reorganization plans.

"If the President and his advisers intend however, the reorganization plan powers in good faith and with genuine limitations, then they can withdraw and resubmit plan No. 5. exempting the Patent Office by specific phraseology. The Patent Office has been independent since the founding of the Republic, and we must keep it so."

Whereas Reorganization Plan No. 5 submitted by the President to the Congress on March 13, 1950, pursuant to the Reorganization Act of 1949 pertains to the Department of Commerce in which the Patent Office is located; and

Whereas plan No. 5 has been submitted to the Congress as being in consonance with the intent of the Reorganization Act of 1949 to produce better, more efficient, and more economical administration of the executive branch of the Government; and

Whereas plan No. 5 transfers to the Secretary of Commerce all functions of the Commissioner of Patents; and

Whereas it is firmly believed that plan No. 5 will not produce better, more efficient, and more economical administration of the Patent Office and of the patent system and may, instead, have the opposite effect for the reasons set forth in the attached memorandum in support of resolution; and

Whereas section 1 (b) of plan No. 5 provides specific exceptions of certain agencies of the Department of Commerce from the provisions of section 1 of said plan but does not except the Patent Office: Be it therefore

Resolved, That the Chicago Bar Association disapproves Reorganization Plan No. 5 of 1950 pertaining to the Department of Commerce unless and until the Patent Office is specifically excepted from the provisions of said plan; be it further

Resolved, That copies of this resolution be transmitted immediately to appropriate Members of Congress and such other persons as the board of managers designates.

MEMORANDUM IN SUPPORT OF RESOLUTION

1. The Patent Office by law is headed by a Commissioner of Patents who is appointed by the President with the advice and consent of the Senate. Plan No. 5 will effectively remove the Senate's control of determining who will administer the patent laws. This is made possible for the following reasons:

Section 1 transfers to the Secretary of Commerce all functions of all other officers of the Department and all functions of all agencies and employees of the Department. By section 2 the Secretary may then, if he deems appropriate, authorize the performance by any other officer, or by any agency or employee, without regard to qualifications or rank, of any function acquired by the Secretary by section 1. The functions of the Commissioner of Patents are not specifically excluded from these provisions, although certain other agencies of the Department of Commerce are excluded by section 1 (b). Section 4 of the plan permits the Secretary to transfer within the Department any records, property, personnel, appropriations, and other funds of the Department as he deems necessary to carry out this reorganization plan.

By the foregoing provisions a Commissioner of Patents who is appointed by the President and approved by the Senate and who is acceptable to the public and profession can be subjected to direct political pressure by the Secretary of Commerce and the Secretary's superiors. If the Commissioner does not conform to the wishes of his political superiors, all functions, personnel, property, and appropriations can be transferred to a politically acceptable employee in the Department regardless of the qualifications or rank of such employee.

A system whose history of independence and success has been so great in furthering the physical development of this country should not be subjected to such a threat.

2. The examiners in the Patent Office are required to be highly trained and learned in various scientific fields. No other employees in the Department of Commerce are qualified to perform their functions. Any transfer of their functions to other employees would be destructive of sound administration of the patent system and would be economically wasteful.

3. By the records of the Department of Commerce[1] the Patent Office is one of the few Government agencies that not only pays its own way but which actually renders a profit. There are, therefore, no reasons on grounds of economy for subjecting the Patent Office to the provisions of plan No. 5.

4. The Commissioner and the examiners of the Patent Office perform quasi-judicial functions in determining property rights of individuals and rights between private parties. These functions should not be subjected to political control any more than the functions of the United States courts.

5. The Patent Office is one of the few agencies of the Government granting monopoly rights. Plan No. 5 would permit administratively awarding the politically favored and punishing those politically in disfavor by the grant or withholding of patents, respectively. This is possible because there is no appeal to the courts from the Patent Office's decision to grant patents. An appeal to the courts lies only upon the final refusal to grant patents. Since the Commissioner is not compelled finally to refuse the grant of a patent, applications for patent filed by those in political disfavor could be delayed indefinitely.

6. President Washington in 1790 signed the first patent laws which were enacted pursuant to the constitutional provision which says:

"The Congress shall have the power * * * to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

In 1802 the Patent Office was given the status of a distinct unit or division within the Department of State and in 1836 was established by law as a distinct and separate bureau in that Department.

7. In that Department and successively in the Departments of the Interior and Commerce the Patent Office has been independent and free of political control for the 148 years of its existence.

8. The administration of the patent system, free of political control, has promoted the progress of science and the useful arts to the point where the United States is the most scientifically developed country in the world and enjoys the highest standard of living.

RESOLUTION OF AMERICAN PATENT LAW ASSOCIATION BOARD OF MANAGERS, APRIL 10, 1950

Whereas the American Patent Law Association vigorously supports the objectives of the Reorganization Act of 1949 (Public Law 109, 81st Cong.) providing for the reorganization of governmental agencies to promote better execution of the laws, economy, and efficiency by regrouping governmental agencies and eliminating overlapping and duplication of effort; but is emphatically of the opinion that no one of these objectives will be promoted by the transfer to the Secretary of Commerce of the functions of the Commissioner of Patents or other officers or employees of the United States Patent Office,

[1] The record here relied on is the publication entitled "The Story of the American Patent System, 1790–1940," issued by the U. S. Department of Commerce. (See bottom of p. IV and top of p. V.)

or the transfer out of the Patent Office of any of its records, property, personnel, or unexpended balances, or the transfer into the Patent Office of personnel other than as provided by law, as proposed in Reorganization Plan No. 5 of 1950, transmitted by the President to the Congress March 13, 1950; and

Whereas the American Patent Law Association is convinced that the ability of the Commissioner of Patents and other officers and employees of the Patent Office to efficiently function in the orderly issuance of patents to qualified inventors, and to issue certificates of registration of trade-marks to qualified applicants, will be seriously decreased if such plan should become law, thus resulting in injury to the people of the United States by retarding the progress of science and the useful arts: Therefore be it

Resolved, That the American Patent Law Association vigorously opposes Reorganization Plan No. 5 insofar as it applies to the Patent Office, and respectfully urges the Congress to disapprove that plan and to disapprove any other plan which may embody provisions purporting to transfer to the Secretary of Commerce or the head of any other department any of the functions of the Commissioner of Patents as now defined by law; and further

Resolved, That the president of this association be authorized to present copies of this resolution to appropriate committees of Congress and to request that representatives of the association be heard in support of the resolution, and to take such other steps in the premises as he may deem appropriate and fitting.

The VICE PRESIDENT. The resolution will be received and appropriately referred.

The resolution (S. Res. 259), submitted by Mr. WILEY, was referred to the Committee on Expenditures in the Executive Departments.

BIPARTISAN COMMISSION RELATING TO AMERICAN POLICY IN GERMANY

Mr. GILLETTE (for himself, Mr. PEPPER, Mr. HENDRICKSON, Mr. IVES, Mr. LEHMAN, Mr. KILGORE, Mr. DOUGLAS, and Mr. CHAVEZ) submitted the following resolution (S. Res. 260), which was referred to the Committee on Foreign Relations:

Whereas in common with the other free nations, the United States has a vital interest in the maintenance of democratic institutions in Germany; and

Whereas the United States has a vital interest in the development of such economic, social, and cultural conditions in Germany as will further the growth of democratic institutions; and

Whereas the United States has a vital interest in preventing any alliance between Nazi, militarist, or other antidemocratic elements in western Germany and the totalitarian communism of the East: Be it therefore

Resolved, That the President of the United States is requested to appoint at his earliest convenience a bipartisan commission composed of six (or eight) members and to direct such commission to conduct a study of all matters relating to the conduct and status of American policy in Germany and its coordination with American foreign policy, and to determine—

(a) Whether political parties or groups based on antidemocratic ideologies exist and are obstructing American objectives as stated above;

(b) Whether German cartels and trusts have reemerged contrary to allied policy and cinstitute a threat to German political democracy and world peace;

(c) Whether the present German educational system has successfully developed means to further the dissemination of democratic ideas and information about democratic institutions and practices;

(d) Whether there is significant evidence of militaristic, ultranationalist, anti-Semitic, or other antidemocratic propaganda in the present German press, periodicals, and cinema and over the German radio;

(e) Whether the German war potential is being restored to an unwarranted extent and whether German military or paramilitary organizations have appeared;

(f) Whether and to what extent persons with prior Nazi affiliation or antidemocratic convictions have penetrated into the political, judicial, economic, educational, and cultural life, and the civil service of Germany;

(g) Whether prodemocratic elements have been deterred or discouraged from active participation in building postwar Germany;

(h) Whether the German people are being encouraged to look beyond purely nationalistic aims toward participation in a broader association of free nations;

(i) Whether economic power in Germany has shifted into new hands or is again gravitating to or has been regained by the same individuals, families, or groups who held that power before the outbreak of war.

(j) Whether Economic Cooperation Administration funds have been utilized to strengthen prodemocratic elements and tendencies in western Germany; and be it further

Resolved, That the President is requested to direct the commission to make a preliminary report to him, for transmittal to Congress, within 90 days of its appointment, and to report to him, for transmittal to Congress, on or before December 31, 1950, the final results of its study, together with specific recommendations for the future conduct of American policy in Germany.

Mr. GILLETTE subsequently said: Mr. President, I dislike very much to delay consideration of the pending measure by talking on an extraneous matter, but earlier in the session today, on behalf of seven of my distinguished colleagues and myself, I submitted a resolution which we deem of outstanding importance. I should like very much to make a statement of about 12 or 15 minutes' length in connection with it, but, out of consideration for the able chairman of the committee having the pending bill in charge, I prefer to place it in the RECORD. I ask unanimous consent that the statement, without being delivered, be printed in the RECORD, as a part of my remarks.

There being no objection, Mr. GILLETTE's statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR GILLETTE

Mr. President, there is a deep and growing concern among our people over the course of events in Germany today. I have a strong impression, which I am sure is shared by many of my colleagues, that thoughtful Americans are increasingly apprehensive of an approaching crisis in Germany and are increasingly troubled by what they read and hear of developments in that country.

Ominous reports from eastern Germany tell of a revived German army under Communist command. Observers are warning of a gigantic Communist demonstration in Berlin, due on May 28, which could turn into a showdown between opposing German forces, one encouraged by the Soviet occupation authorities, the other supported by the western Allies.

From western Germany came stories that new demands on the occupying powers are being prepared in anticipation of the forthcoming Foreign Ministers Conference in London. There are intimations of political blackmail by Germans in the west who threaten to jump into the arms of Stalin if these new demands are not met.

And, leading up to all this, during the past year, and especially during the first few months of this year, there has been a mounting number of news stories reporting the resurgence of the same forces in German society against which the world has had to fight the two greatest wars in history. Woven like a black thread through these reports is repeated evidence that some of these elements, reemerging in western Germany have a program of collaboration with the Soviet Union, looking to the day when the Allies withdraw from their occupation of Germany and an independent German state, dominated by enemies of democracy—whether National Bolshevists, Strasser Black Front Nazis, followers of the Haushofer geopolitical school, or some other neo-Nazi movement—can proceed to ally itself in a new and fearsome totalitarian Axis with Soviet Russia.

At the same time, other antidemocratic elements in west Germany, which are neither Communist nor desirious of a pact with Moscow, are reported to be actively sabotaging Allied policy and preparing to seize power at the first favorable moment. On April 5, for example, the New York Times quotes the leader of the Bruederschaft, or Brotherhood of Former German Army Officers which is secretly operating in western Germany, as stating publicly his conviction that by 1952 the whole parliamentary system will have broken down utterly and the brotherhood will have taken over every post in the German Government.

How much truth is there in these reports? How grave is the threat of these various conspiratorial movements? On the basis of what facts can we in the Congress reach sound conclusions as to our country's future course in Germany? Are we once again to wait, as we have done so often in the past, until the crisis explodes before our eyes and we are confronted with the necessity of half blindly endorsing and voting funds for whatever plan may have been devised to meet the disaster? And should the approaching German crisis end in a more terrible loss for us than the loss of China to the Communists, will we have anyone to blame but ourselves if we have not taken steps to secure the fullest possible knowledge about Germany that we need in order to legislate with foresight and intelligence?

I am today submitting for appropriate reference a resolution designed to secure for the Congress, and through it, for the people of the United States, the facts on Germany which we must have. Associated with me in sponsoring this resolution are the senior Senator from Florida [Mr. PEPPER], the junior Senator from New Jersey [Mr. HENDRICKSON], the senior Senator from New York [Mr. IVES], the junior Senator from New York [Mr. LEHMAN], the senior Senator from West Virginia [Mr. KILGORE], the junior Senator from Illinois [Mr. DOUGLAS], and the senior Senator from New Mexico [Mr. CHAVEZ.]

We are requesting the President to appoint a bipartisan commission to conduct a study of all matters relating to American foreign policy in Germany and to report its findings and recommendations to the President for transmittal to the Congress.

Mr. President, in considering the German problem it is evident that there are at least three general attitudes or schools of thought on Germany which seem to be competing for our people's attention today.

One attitude can be summed up as follows: This group, in effect, says: "The Allies have not rebuilt a powerful enough Germany fast enough. Too many industrial plants have been dismantled. The Ruhr steel capacity is too low. German shipbuilding is being throttled. Denazification is preventing competent German managers from bringing about recovery. Decartelization is sapping the initiative and confidence of Ger-

man industrialists. Our allies, Britain and France, are largely to blame, and certain American officials are helping them in these moves against the Germans."

This attitude assumes that the stronger Germany is and the more industrialized it becomes and the more freedom of action we give the present dominating elements in Germany, the better it will be. A powerful western Germany, it is said, will oppose the Soviet Union. A rearmed western Germany will fight on our side. An authoritarian western Germany will smash communism within its borders and take its stand against the world Communist movement.

But, say those who hold this view, because we have not rebuilt Germany, unemployment is spreading and the unemployed will go Communist, while the industrialists, unable to sell in western markets, will make a deal with the Soviet east. A weak Germany, according to this view, will hurry to make a pact with the Russians. Therefore, they say, we must encourage the resurgence of German power with every means at our command, rearm the Germans, forget about this insistence on democracy and get on with the preparations for the inevitable military show-down.

The second general attitude on Germany might be stated by its advocates as follows: "We have rebuilt Germany. We have done a magnificent job of it. Western Germany is now producing 11,000,000 tons of steel a year. Industrial recovery has been "rapid and dramatic." The new German Government believes in democracy and American-style free enterprise. We are urging it to join with its western neighbors. Because we are treating Germany so generously, she will be our ally against Russia. A strong Germany will defend our interests but we must not go too fast, lest the economies and political stability of our allies in the Atlantic Pact be damaged."

This view holds that we must encourage an economically integrated and politically unified western Europe, with Germany a part of it. We must not hurry German rearmament, lest our allies become terrified of it, but we must guide the German republic and furnish it with all possible aid until it can be successfully merged with its western neighbors, and its troops be joined with the western defense forces.

This second attitude assumes that our policy in Germany, by and large, has been right; that if mistakes have been made, it is unfortunate, but since the only real danger in Europe comes from the Communists, we should forget the past, close our eyes to much of the present, and work to rebuild Germany as rapidly as we safely can do so, along with our allies, so as to protect them and us against Russian attack. In this view, it will be up to the Germans themselves, if they wish to do so, to get rid of the sinister elements that are reemerging, since it would be "undemocratic" for us now to interfere in their internal affairs, even if we still had the authority and the power to do so.

The third basic approach to the German question might be stated sketchily by its supporters in the following terms: "We have not only rebuilt German industry at a 'rapid and dramatic' pace, but we have gone so far as to rebuild the very same type of German society that previously led the German nation again and again into industrial conquest and aggressive war. We are thereby creating a Frankenstein monster that will rise up and dominate its western neighbors industrially, politically and militarily. A united western Europe with this kind of Germany in it would be a united Europe under German control, a state of affairs which we have just fought a terrible war to prevent.

"The same elements that ruled the kaiser's Germany and the fuehrer's Germany are returning to power in postwar western Germany. The same men who directed the cartelized German economy under Hitler before the war and who operated German industry for Hitler during the war have moved back openly or secretly into control of German industry, German economy, and German politics since the war.

"The stronger this kind of Germany is, the more likely it will be to strike a bargain with the Russians. It will soon be strong enough to repudiate the western allies. It will soon be strong enough to arrange a Russo-German alliance without fear of an internal German Communist threat.

"It is already very late. The time may not be far off when the allies will yield full liberty of action to the west German government. Then it will be altogether too late to do anything about the internal character of this resurgent German power or to prevent the antidemocratic forces controlling it from signing a pact with the totalitarian Communists in the east. We will then see our whole postwar design in Europe tumble down around our heads. A German alliance with Russia will not only destroy the Atlantic defenses and obliterate the effects of the Marshall plan, but will threaten the whole edifice of American power in Europe and bring the world to the threshhold of unimaginable catastrophe.

"Such a German alliance with Russia does not and will not have to be arranged by Communists in western Germany, but can well be made by industrialists, militarists, and pro-Nazis of every stripe who, under our very eyes, are regaining power to direct the destinies of the German Republic.

"A powerful, reindustrialized, recartelized, rearmed—and renazified—Germany, with the Ruhr as its arsenal, is not likely to cooperate with either our western allies or with us. Such a German state is far more likely to take advantage of Russian offers of collaboration in eastern Europe, China, and the Soviet Union itself than it is to collaborate on a friendly basis with us. The Germans remember the Nazi-Soviet pact of 1939, the Rapallo agreement in the 1920's, and the pro-Russian orientation of the Iron Chancelor, Bismarck. We should remember these, too."

There may be other attitudes on Germany, Mr. President, and we hope to be informed about them if they exist. These are three which have recently begun to clarify themselves in my mind. They show such a wide divergence of opinion that they make a general debate on Germany by our people both inevitable and desirable.

Now, while there is still time, I urge as persuasively as I can, that the Congress and the people commence the long overdue public debate on Germany and our policy there. It may be that there is nothing we can do now to undo what has already been done. If this is so, we must know it, at once. We will make far different decisions as to our future course if the die is already irremediably cast than if there is still a possibility of making democratic society a reality instead of a myth in western Germany.

I hope, Mr. President, that the Foreign Relations Committee will take speedy action on this resolution. I hope that the State Department will welcome this resolution as a means of stirring public awareness of the approaching German crisis. I hope that we can have action by the President to appoint a commission of inquiry on Germany as soon as possible.

The Secretary of State, in his valuable speech at San Francisco a few weeks ago, called for the people to participate in total diplomacy. Total diplomacy requires, above all, public understanding of both the policies of the Government and of the realities and circumstances on which those policies are based.

We cannot secure the enthusiastic participation of our people in the Nation's diplomatic efforts, total or otherwise, without first securing the facts for them and, second, persuading them that the policy is correct in the light of those facts.

What we need most of all, it seems to me, is full knowledge of the deadliest menace in Europe today: The threat that a supernationalist, authoritarian, reindustrialized, and rearmed German state will ally itself with the Soviet Union to dominate the Eastern Hemisphere and even the world.

Without this knowledge, we will drift helplessly onward, incapable of thwarting disaster until we find, that as in Asia, so in Europe, all our efforts, all our sacrifices, all our expenditures of men and money may have been utterly and completely in vain.

Mr. President, I am informed that several Members of the House of Representatives of both parties have expressed interest in the subject matter of this resolution, including Representatives JAVITS, ROOSEVELT, and CELLER, of New York; CASE of New Jersey; SABATH, of Illinois; and MANSFIELD, of Montana, several of whom intend to introduce similar resolutions in the House immediately after the recess.

ADDRESS BY SENATOR MARTIN AT LAFAYETTE COLLEGE, EASTON, PA.

[Mr. WILLIAMS asked and obtained leave to have printed in the RECORD the address delivered by Senator MARTIN before a student convocation at Lafayette College, Easton, Pa., on April 14, 1950, which appears in the Appendix.]

A TIMELY REVISED GETTYSBURG ADDRESS

[Mr. WILLIAMS asked and obtained leave to have printed in the RECORD a 1950 version of Lincoln's Gettysburg Address, which appears in the Appendix.]

METHOD OF ELECTION OF PRESIDENT AND VICE PRESIDENT—ARTICLE BY LUCIUS WILMERDING, JR.

[Mr. FERGUSON asked and obtained leave to have printed in the RECORD an article relating to the proposed change in the method of electing the President and Vice President, written by Lucius Wilmerding, Jr., and published in the Washington Post of April 17, 1950, which appears in the Appendix.]

AMERICAN POLICY IN CHINA—EDITORIAL BY DANIEL A. POLING

[Mr. MUNDT asked and obtained leave to have printed in the RECORD an editorial with reference to American policy toward China, written by Daniel A. Poling, editor of the Christian Herald, which appears in the Appendix.]

THE WAY—BY JAMES T. SHOTWELL

[Mr. LEHMAN asked and obtained leave to have printed in the RECORD a poem entitled "The Way," written by James T. Shotwell, and published in a recent issue of the Saturday Review of Literature, which appears in the Appendix.]

LOCAL CONTROL OF VALLEY PROJECTS—ARTICLE FROM THE SALT LAKE TELEGRAM

[Mr. WATKINS asked and obtained leave to have printed in the RECORD an article entitled "Utah Senator Proposes a Plan for Local Control of Valley Projects," from the Salt Lake Telegram of April 13, 1950, which appears in the Appendix.]

TEXAS TECH STUDIES DUST STORMS

[Mr. JOHNSON of Texas asked and obtained leave to have printed in the RECORD an article entitled "Tech Study Shows Tons of Dust Carried in More Intense Blows," written by Kenneth May, staff writer of the Lubbock Avalanche, and published in the

81ST CONGRESS
2D SESSION

H. RES. 546

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 1950

Mr. BRYSON submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 5 transmitted to Congress by the President on May 13, 1950.

81ST CONGRESS
2D SESSION

H. RES. 546

RESOLUTION

Disapproving Reorganization Plan Numbered 5.

By Mr. BRYSON

APRIL 20, 1950

Referred to the Committee on Expenditures in the Executive Departments

Mr. BRYSON. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to include a statement from the American Patent Law Association.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

REORGANIZATION PLAN NO. 5

Mr. BRYSON. Mr. Speaker, I am offering a House resolution disapproving of Reorganization Plan No. 5 of 1950 which was messaged to the Congress by the President of the United States on March 13, 1950. As the Members realize, the Reorganization Act of 1949 provides that the reorganization plan becomes effective 60 days after its presentation to Congress, unless either body of the Congress by majority resolution disapproves the plan within the stated time. Reorganization Plan No. 5 will become effective at midnight, May 24, unless either body of the Congress takes such negative action.

I am chairman of Subcommittee No. 4 of the House Judiciary Committee. My subcommittee has initial jurisdiction, as delegated by the Judiciary Committee, over legislation concerning patents, trade-marks, and copyrights. The subcommittee was recently approached by a delegation of eminent patent attorneys representing the American Patent Law Association and other substantial organizations in that field, with seemingly sound arguments in opposition to Reorganization Plan No. 5 because of its transfer of functions of the Commissioner of Patents to the Secretary of Commerce. As represented by them, the plan would convey to the Secretary of Commerce all of the discretionary functions now residing in the Commissioner of Patents. Because of the fact that the Patent Office is an institution of the Government exercising quasi-judicial functions, it was the unanimous judgment of the subcommittee that the result would be very harmful to the American patent system. Moreover, the subcommittee has been assured by responsible people that the reorganization plan would create no new efficiencies nor would it effect any economies in the operation of the Patent Office.

The Reorganization Act of 1949 provides that any Member opposing a plan of reorganization recommended by the President can offer a resolution disapproving the plan. Such resolution is refered to the appropriate committee of the House, which is given 10 days within which to consider and take action upon it. In absence of such action, provision is made in the act for bringing the resolution up on the floor of the House as a privileged matter for debate.

A few days ago Senator WILEY introduced such a resolution in the Senate disapproving Reorganization Plan No. 5, which he did with the consent and approval of the full Judiciary Committee. The reasons for this action on the part of Senator WILEY were described in full in a statement which he inserted in the RECORD at the time he introduced the resolution. I heartily endorse the sentiments he described in that statement.

As I see it, it was never the plan of the Hoover group to substantially interfere with agencies of the Government exercising judicial functions. However, it has been apparently overlooked that the Patent Office is such an agency, and I am more than fearful that the transfer of discretionary functions from the Commissioner of Patents to the Secretary of Commerce might, at some future time when an incumbent of the latter office may be of different stamp from the present incumbent, cause the basic theory and purposes of our patent system to be substantially impeded or altogether thwarted by an unwise exercise of discretion on the part of the Cabinet officer who may lack the professional qualifications requisite to a proper appreciation of the patent system. It is significant to note that the plan in question specifically exempts, among others, the functions of the Civil Aeronautics Board, presumably on the theory that it is an agency exercising judicial functions. If that be the case, then I see no logical distinction between the Civil Aeronautics Board on the one hand and the Patent Office on the other. Indeed, the Patent Office represents an ancient and time-honored institution in this country, and a body no less authoritative than the Supreme Court of the United States has gone on record to describe in detail their view of the importance that the functions of the Patent Office be discharged by experts who are professionally qualified in that field, without interference by offices in higher echelons of the executive branch of the Government.

I am mindful of the fact that, in order to gain maximum benefit from the over-all scheme of governmental reorganization proposed by the Hoover Commission, it is essential that the plans pursuant thereto be not whittled away by one exception after another. However, I am convinced that the Hoover Committee committed error in proposing a plan on the reorganization of the Commerce Department which does violence to such an important quasi-judicial agency as the Patent Office, while it offers no efficiencies in return. In this view I am supported abundantly by patent groups and individual patent attorneys who have written me from all over the country.

I have seen fit, prior to introduction of this resolution, to take up the matter of its introduction with the full Judiciary Committee meeting in executive session. Out of respect for the preservation of the process provided in the Reorganization Act of 1949, which provides for consideration of such resolutions by the appropriate committee in Congress, the Judiciary Committee withheld any official view upon the soundness of Reorganization Plan No. 5, but did unanimously authorize me to introduce this resolution so that it may be amply considered in due course in proper quarters. In introducing it, I am sincerely hopeful that the Expenditures Committee of this body will see fit to hold hearings within the 10-day period provided by law so that the equities and inequities of the reorganization plan can be thoroughly aired and Congress be given an opportunity to consider the impact of the plan upon the Patent Office. In support of the resolution, I submit at this time for inclusion in the CONGRESSIONAL RECORD a memorandum of the American Patent Law Association describing in greater detail the grounds of their opposition:

MEMORANDUM OF THE AMERICAN PATENT LAW ASSOCIATION IN OPPOSITION TO REORGANIZATION PLAN NO. 5 OF 1950 PROVIDING FOR REORGANIZATION IN THE DEPARTMENT OF COMMERCE

The American Patent Law Association vigorously opposes Reorganization Plan No. 5 insofar as it applies to the Patent Office for the reasons:

1. That the transfer to the Secretary of Commerce or to the head of any other department of any of the functions of the Commissioner of Patents is unsound and undesirable, and would not further any of the stated objectives of the Reorganization Act of 1949, and

2. That Reorganization Plan No. 5 is not actually a reorganization plan with respect to the Patent Office but is an unrestricted continuing authorization to the Secretary of Commerce to reorganize the Patent Office and to reassign the functions of its legally established officers and tribunals without any reference to the Congress whatsoever.

I. The proposal to transfer to the Secretary of Commerce all functions assigned by law to the Commissioner of Patents is unsound and would seriously impede the Commissioner of Patents and the other officers and employees of the Patent Office in the performance of their duties in the issuance of patents and the registration of trademarks; it would seriously impair the present high public confidence in the integrity of the officers and employees of the Patent Office; and it would effectively nullify the long-continued close surveillance and control which the Congress has rightfully always maintained over this organization which is so important to the American economy.

The Congress has assigned by law to the Commissioner of Patents certain important functions. These functions, a number of which are set forth below, would be transferred to the Secretary of Commerce under Reorganization Plan No. 5:

1. Quasi-judicial functions over which the Secretary has now no control or veto power.

PATENTS

A. Deciding cases as member of board of appeals (35 U. S. C. 7).

B. Disbarment of attorneys (35 U. S. C. 11).

C. Determining who shall receive patents (35 U. S. C. 36).

D. Deciding which inventions shall be kept secret (35 U. S. C. 42).

E. Deciding whether or not interferences should be declared (35 U. S. C. 52).

F. Deciding petitions.

TRADE-MARKS

A. Deciding who shall receive certificates (15 U. S. C. 1051).

B. Deciding inter partes controversies (15 U. S. C. 1068).

C. Deciding all controversies on appeal (15 U. S. C. 1070).

D. Prescribing rules and regulations governing trade-mark registration procedures (15 U. S. C. 1051).

2. Supervisory functions over which the Secretary has now no control or veto power.

A. Report to the Congress (35 U. S. C. 20).

3. Supervisory functions of the Commissioner over which the Secretary has only a veto power.

A. Selection of employees (35 U. S. C. 2).

B. Making of rules (35 U. S. C. 6).

C. Performance of duties relating to lawful issue of patents (35 U. S. C. 6).

The Patent Office, in very much its present form, was created by the Congress by the act of 1836 (ch. 357, 5 Stat. 117). This act provided for a chief officer of the Patent Office to be known as the Commissioner of Patents, and the act declared it to be the duty of the Commissioner to issue patents on inventions which he deemed to be "sufficiently useful and important." The act provided for an appeal from the rejection of a patent application to a board of three examiners. Provisions for a suit in equity against the Commissioner for refusal to issue a patent (compare 35 U. S. C. 63; R. S. 4915) and for an appeal to the Circuit Court of the United States for the District of Columbia (compare 35 U. S. C. 59a; R. S. 4911) were made by the act of 1839 (ch. 88, 5 Stat. 354).

The early legislation with respect to the granting of patents was reviewed in the opinion of the Supreme Court in *Butterworth* v. *Hoe* (112 U. S. 50 (1884)), a case in which the nature of the function of the Commissioner of Patents and the relation of the Secretary of Interior (the Patent Office was then a part of the Department of Interior for administrative purposes) thereto were fully considered and determined. Speaking of the duties and functions of the Commissioner of Patents, the Supreme Court said, in the cited case:

"The conclusion cannot be resisted that, to whatever else supervision and direction on the part of the head of the department may extend, in respect to matters purely administrative and executive, they do not extend to a review of the action of the Commissioner of Patents in those cases in which, by law, he is appointed to exercise his discretion judicially. It is not consistent with the idea of judicial action that it should be subject to the direction of a superior, in the sense in which that authority is conferred upon the head of an executive department in reference to his subordinates. Such a subjection takes from it the quality of a judicial act. That it was intended that the Commissioner of Patents in issuing or withholding patents, in reissues, interferences and extensions, should exercise quasi-judicial functions, is apparent from the nature of the examinations and decisions he is required to make, and the modes provided by law, according to which, exclusively, they may be reviewed."

The wisdom of the policy of the Congress, uniformly adhered to for over a century, in confiding such judicial functions to a specially designated official who could be, and uniformly has been, selected for his acquaintance with and devotion to the patent system, is obvious. The shelves of bound volumes of decisions of the Commissioners of Patents in our law libraries are a monument to that wisdom, and to the integrity and intelligence of a long line of highly respected Commissioners.

Anyone seeking to divert from the Commissioner of Patents the judicial function imposed on him by the Congress over this great length of time surely should be required to make some showing of benefits commensurate with the disadvantages inherent in the proposal. No such showing has been made and no such showing can be made. Transfer of the functions of the Commissioner of Patents to the Secretary of Commerce would not promote better execution of the law, economy, of efficiency and would not eliminate any overlapping of functions as no such overlapping now exists. True, under the proposed plan the Secretary of Commerce could redelegate the judicial functions now exercised by the Commissioner of Patents to that official, but this would be contrary to the principle laid down by the Supreme Court in the Butterworth case, cited.

Inevitably, under the proposed plan the functions of the Commissioner of Patents would have to be exercised by some one other than the Secretary of Commerce, as some of those functions are now in fact exercised by Assistant Commissioners and other officers responsible to the Commissioner of Patents. But the vice of the situation proposed by plan 5 which does not exist today, is that the official responsible for the judicial decisions would not be, as is the case today, an official selected for his special qualifications to make those decisions.

The Secretary of Commerce should not be responsible for judicial decisions in the highly specialized field of patents and trademarks, which we must presume he would not be competent to make, for it is not believed that it would be rational to expect that heads of the Commerce Department would generally be experienced in the technical legal problems involved in the granting of patents, the registration of trademarks, the resolving of interferences, and the like, no matter how competent they might be in general administrative and executive duties.

The interests of the patent system, of the American economy, and of the country at large demand that the functions of the Commissioner of Patents be continued to be exercised by him directly and responsibly, as the wisdom of the Congress has provided since 1836.

II. A second, and possibly a more fundamental objection to plan No. 5 is that it is essentially not a reorganization plan at all but a request for a blanket authorization for any reorganization the Executive may hereafter see fit to make. It may be termed a plan not to have any plan. It is submitted that plan No. 5 is not within the spirit, even if it is within the letter of the Reorganization Act of 1949. Surely the Congress contemplated that plans for reorganization submitted under that act would be something tangible and definite, which the Congress could examine and evaluate, and approve or disapprove as the Congress saw fit. Plan No. 5 is not such a definite and tangible plan, but merely a request for authority to reorganize without further reference to the Congress.

Under plan No. 5 the Secretary of Commerce may, at any time, make any such rearrangement and reassignment of the functions which the Congress has assigned to the Commissioner of Patents and his staff, as the Secretary sees fit. This proposal is inconsistent and incompatible with the careful scrutiny and control which the Congress has always exercised over the Patent Office, in obvious recognition of the vital role which the Patent Office plays in the American economy.

A very recent example of this close scrutiny and control is to be found in Public Law 452 of the present Congress, approved March 4, 1950, in which the Commissioner is authorized, in his discretion, to designate primary examiners to serve on the board of appeals, under carefully worded conditions and restrictions. This law is worded as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 482 of the revised statutes (35 U. S. C. 7) is amended by adding the following paragraph:

" 'The Commissioner, when in his discretion considered necessary to maintain the work of the board of appeals current, may designate any examiner of the primary examiner grade or higher, having the requisite ability, to serve as examiner in chief for periods not exceeding 6 months each, and any examiner so designated shall be qualified to act as a member of the board of appeals. Not more than one primary examiner shall be among the members of the board of appeals hearing an appeal.' "

It is impossible to believe that the Congress will now wish to abdicate entirely its long and consistent close control of the functioning of the Commissioner of Patents and the Patent Office to the unlimited discretion of the Secretary of Commerce.

It is earnestly submitted that the Congress should reject Plan No. 5 and that it should not at any time approve any plan of reorganization which does not clearly and definitely reserve to the Commissioner of Patents and the officials and tribunals of the Patent Office those functions which have been committed to them by the Congress ever since 1836.

Respectfully,

AMERICAN PATENT LAW ASSOCIATION.

SPECIAL ORDER

Mr. BRYSON. Mr. Speaker, I ask unanimous consent to revise and extend my remarks with reference to the bill H. R. 4703 and include a clipping from the United States News.

The SPEAKER. Is there objection?

There was no objection.

INTERNAL SECURITY OF THE UNITED STATES

Mr. BRYSON. Mr. Speaker, under date of March 15, the House passed H. R. 4703, a bill I introduced to further provide for the internal security of our country. Although I spoke on the measure while it was under consideration by this body, I cannot refrain from speaking again because of the increasing importance of the subject matter.

At the end of my remarks, I am attaching an excerpt from the United States News of April 21, 1950, to which I respectfully call your attention.

The continuing events of the so-called cold war and the still fresh memories of our experiences during World War II furnish, I am sure you will all agree, ample justification for the continuing and most serious consideration of new measures such as the bill about which I speak.

H. R. 4703, now pending in the Eighty-first Congress, is a bill relating to the internal security of the United States. That title itself is self-evident of the importance of this measure. Well aware that such security necessitates constant strengthening and that vicissitudes and treacheries may beset us at any time in these hazardous days, the House of Representatives passed this measure on March 15, 1950, by the overwhelming vote of 368 to 2. The gentlemen from New York, Messrs. VITO MARCANTONIO and ADAM POWELL, voted against it. The measure is now pending in the Senate where it has been placed on the Senate Calendar and where a companion bill, S. 595, has been reported favorably by the Senate Committee on the Judiciary—Report No. 427—and also awaits Senate action. Hence, we may reasonably hope for and anticipate final action on the bill before the termination of the Eighty-first Congress. I believe there is no measure now before Congress more deserving of speedy enactment.

Before I discuss the provisions of the bill itself, let me give you a little of its background. The bill in its original form was drafted by the Interdepartmental Intelligence Committee, a joint group consisting of representatives of the Department of Justice, the Military Intelligence Division of the Department of the Army, the Office of Naval Intelli-

Union Calendar No. 741

81ST CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1976

REORGANIZATION PLAN NO. 5 OF 1950

MAY 2, 1950.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DAWSON, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany H. Res. 546]

The Committee on Expenditures in the Executive Departments, to whom was referred the resolution (H. Res. 546) rejecting Reorganization Plan No. 5 of 1950, having considered the same, report unfavorably thereon without amendment and recommend that the resolution do not pass.

GENERAL STATEMENT

The purpose of House Resolution 546 is to express disapproval of Reorganization Plan No. 5 of 1950, transmitted to the Congress by the President on the 13th day of March 1950, and the effect of the adoption of this resolution by the Congress will be to prevent such plan from coming into force and effect on May 12, 1950, mindful, however, that under section 6 (b) (2) of the Reorganization Act of 1949 (Public Law 109, 81st Cong.), that from the 60-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain.

The scope and the effect of the reorganization plan, in the absence of a disapproval by a House resolution, are set forth in the plan in the following words and figures:

DEPARTMENT OF COMMERCE

SECTION 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Commerce all functions of all other officers of the Department of Commerce and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Commerce, nor to the functions of the Civil Aeronautics Board, of the Inland

Waterways Corporation, or of the Advisory Board of the Inland Waterways Corporation.

SEC. 2. *Performance of functions of Secretary.*—The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Commerce of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

SEC. 3. *Administrative Assistant Secretary.*—There shall be in the Department of Commerce an Administrative Assistant Secretary of Commerce, who shall be appointed, with the approval of the President, by the Secretary of Commerce under the classified civil service, who shall perform such duties as the Secretary of Commerce shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 4. *Incidental transfers.*—The Secretary of Commerce may from time to time effect such transfers within the Department of Commerce of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

REORGANIZATION PLAN NO. 5 OF 1950—REORGANIZATIONS IN THE DEPARTMENT OF LABOR

SECTION-BY-SECTION ANALYSIS

Section 1.—This reorganization plan, in general, transfers:

(a) All functions of all other officers of the Department of Commerce and all functions of all agencies and employees of such Department to the Secretary of Commerce;

(b) However, this section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Commerce; the functions of the Civil Aeronautics Board, a regulatory body placed in the Department for "housekeeping" purposes, and the Inland Waterways Corporation, and Advisory Board of the Inland Waterways Corporations, in recognition of their corporate structures, are excepted from the operations of this subsection.

Section 2. Performance of functions of Secretary (delegative powers).—This permits the Secretary of Commerce to make provision, from time to time, as he deems appropriate, authorizing the performance by any other officer, or by any agency or employee, of the Department of Commerce, of any function of the Secretary. These powers so delegable shall include any function transferred to the Secretary by the provisions of this reorganization plan.

Section 3. Administrative Assistant Secretary.—This contemplates appointment by the Secretary of Commerce under the classified civil service of an Administrative Assistant Secretary of Commerce. This appointment would be subject to the approval of the President. This new officer shall perform such duties as the Secretary of Commerce shall prescribe. The rate of compensation fixed for this officer is that which has been found to prevail in respect of comparable officers in the executive branch of the Government.

Section 4. Incidental transfers.—The Secretary of Commerce may, as he deems necessary in order to carry out the provisions of this reorganization plan, from time to time, effect such transfers within the Department of Commerce of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Department.

Addendum

The subject matter embodied in this bill has been of genuine interest to many responsible individuals, organizations, and the general public. Your committee has received many statements, telegrams, and letters, advancing various viewpoints, suggestions, and constructive observations, all of which have proved of immeasurable value. It is contemplated, that insofar as practicable and consistent with the committee policy and economy, these comments and filed statements will be incorporated in the record of our hearings.

In addition, your committee was aided during their deliberations by the excellent presentations made by the many witnesses who appeared both in favor of and in opposition to Reorganization Plan No. 5. From the worth-while analytical nature of their statements, and the inestimable benefit of the interrogatories and colloquies that ensued in the queries by the members there was fully developed the many sound business organization principles underlying and inherent in this reorganization plan. Extensive hearings produced mutual exchanges of views and afforded opportunities for study and evaluation which proved beneficial in the consideration of this management phase of the Presidential program, and materially contributed to the deliberations of your committee.

This reorganization plan contains a pattern which is familiar to the Congress; it exhibits no features necessarily unique. Its principles have been universally adopted in industry in the interest of efficient management and administrative improvement. A survey of the pertinent recommendations of the Commission on Organization of the Executive Branch of the Government, and a complete review of statements filed with the committee, when added to the opportunities presented for cross-examination of witnesses, have developed the necessary and basic information which guided your committee in its decision to reject House Resolution 546.

Purpose of Reorganization Plan No. 5

Reorganization Plan No. 5, in general, transfers to the Secretary of Commerce all functions of all other officers of the Department of Commerce. Besides listed exemptions, certain restrictions on these powers are disclosed by reference to the Administrative Procedures Act. In this way independency of action on the part of hearing examiners is assured. Further the power of the Secretary to delegate to subordinate officers and agencies the performance of his functions where desirable is provided for. Moreover, records, property, personnel, unexpended balances, and other funds may be transferred within the Department of Commerce, whenever it is deemed necessary by the Secretary of Commerce for the purposes of carrying out the provisions of this reorganization plan.

This plan is one of a group of six similar plans recently submitted by the President, proposing parallel departmental reorganizations for the Departments of Treasury, Justice, Interior, Agriculture, Commerce, and Labor.

This organization plan will not ascribe to the Department of Commerce any more powers, authority, functions, or responsibilities than it now possesses. In the main, this legislation will centralize authority,

responsibility, and accountability in the Secretary. This action, of course, carries with it as its necessary concomitant proper delegation of powers and duties on the part of the Secretary.

The Commission on Organization of the Executive Branch of the Government, after a detailed study, emphasized in its initial report the urgency for and reposing "full responsibility for the conduct" of a department in its secretary.

In the report on General Management and its accompanying Task Force Report on Departmental Management, the Commission on Organization of the Executive Branch of the Government, went to some pains to propound the urgency in our Government for sound business management and unmistakable delineation of authority in "a clear line of authority reaching down through every step of the organization." The gist of their thesis tersely stated is: If the superior is responsible and accountable then no subordinate should "have authority independent from that of his superior."

Reorganization Plan No. 5, thus it is seen, coincides with the recommendations the Commission on Organization indicated as necessary for improved internal departmental management. The adoption of this plan by the Congress will result in unification of departmental organization which over a period of years will reward with economy of operation. Then also, the resultant centralization of responsibility and authority will effect rich returns through immediate improvement of efficiency in service.

Role and Mission of the Department of Commerce

The Department of Commerce was established by the Congress in 1903. The labor functions of the Federal Government were also lodged in the Department, then termed the Department of Commerce and Labor. In 1913, the Department of Labor was created as a separate entity of Cabinet level. The major purpose of the Department of Commerce is recited in the organic act of 1903:

> To foster, promote, and develop the foreign and domestic commerce; mining, manufacturing, shipping, fishery industry; and the transportation facilities of the United States.

It is readily apparent, therefore, that many of the recited functions and necessary authority are not included today in the framework of the Department. To this end, the Commission on Organization of the Executive Branch of the Government made numerous recommendations for the betterment of the organizational and operational structure of this Department.

Functions of Agencies of the Department of Commerce

The following is a listing of the basic and most important statutes vesting functions and powers in the constituent subordinate agencies of the Department of Commerce. It will aid if it is recalled that these statutes do not in all cases give the complete picture. The powers of the subordinate agencies and their heads are limited, in varying degrees, by the supervisory authority which the Secretary or the Department has over the administration of the functions of such agencies.

The extent of this supervisory authority in many instances is not clear at the present time, either because of lack of explicitness in the statutes purporting to define it or arising out of judicial decisions or administrative opinions interpreting such statutes.

The purpose of section 1 of Reorganization Plan No. 5 of 1950 is to make it clear that (subject to a few specific exceptions) all functions of all officers and of all agencies and employees of the Department are vested in the Secretary. Section 2 of the plan provides that the Secretary may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of any of these functions.

MAJOR ADMINISTRATIVE UNITS IN THE DEPARTMENT OF COMMERCE

Weather Bureau.—Act of October 1, 1890 (ch. 1266, sec. 3, 26 Stat. 653).—Provides that the Chief of the Weather Bureau shall have charge of forecasting weather, displaying weather signals, issuing storm warnings, etc.

Civil Aeronautics Administration.—1940 Reorganization Plan No. III (sec. 7, effective June 30, 1940, 5 F. R. 2107, 54 Stat. 1231).—Provides that certain specified functions relating to civil aeronautics shall be vested in the Administrator of Civil Aeronautics.

Bureau of the Census.—Act of March 6, 1902 (ch. 139, sec. 3, 32 Stat. 51).—Establishes a permanent Census Office (now Bureau of the Census), with its duties to be superintended and directed by the Director of the Census.

National Bureau of Standards.—Act of March 3, 1901 (ch. 872, 31 Stat. 1449).—Establishes an Office of Standard Weights and Measures (now the National Bureau of Standards), with its equipment and the exercise of its functions to be under the supervision of a director.

Bureau of Foreign and Domestic Commerce.—Act of August 23, 1912 (ch. 350, sec. 1, 37 Stat. 407).—Establishes the Bureau of Foreign and Domestic Commerce, with duties of fostering, promoting, and developing commerce by gathering and publishing statistical information to be performed by that Bureau.

Coast and Geodetic Survey.—Act of August 6, 1947 (ch. 504, sec. 1, 61 Stat. 787).—Defines the functions and duties of the Coast and Geodetic Survey, with the provisions that the Director of the Coast and Geodetic Survey is authorized to conduct the activities specified.

Patent Office.—Act of July 8, 1870 (ch. 230, 16 Stat. 198).—Establishes the Patent Office in the Department of the Interior, imposing upon the Commissioner of Patents the duty of superintending or performing all the duties respecting the granting and issuing of patents. (This unit is taken up in particularity in another part of our report.)

Bureau of Public Roads.—Act of July 11, 1916 (ch. 241, 39 Stat. 355).—Authorizes the Secretary of Agriculture to cooperate with the States in the construction of roads, and to make rules and regulations for carrying out the provisions of the Act. In accordance with this authority, the Secretary of Agriculture established the Office of Public Roads and Rural Engineering (now the Bureau of Public Roads) to carry out these functions.

Basis for Reorganization Plan No. 5

THE RECOMMENDATIONS ON GENERAL MANAGEMENT, COMMISSION ON ORGANIZATION OF THE EXECUTIVE BRANCH

To more thoroughly understand the well-developed, industry-tried principles upon which this reorganization plan is based, your committee recites the following from the Commission on Organization's Report on General Management:

Recommendation No. 13

Within each department, the subsidiary bureaus should also be grouped as nearly as possible according to major purposes.

* * * * * * *

This report also went on to state that of particular importance was:

Recommendation No. 14

Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.

* * * * * * *

Recognition for need of proper staff assistance found expression in:

Recommendation No. 16

Department heads must have adequate staff assistance if they are to achieve efficiency and economy in departmental operations.

* * * * * * *

Further, the Commission on Organization were insistent on pointing out:

Recommendation No. 18

Each department head should receive from the Congress administrative authority to organize his department and to place him in control of its administration.

* * * * * * *

In its Report on General Management (pp. 32–33) the Commission on Organization again observed:

The line of authority from departmental heads through subordinates is often abridged by independent authority granted to bureau or division heads, sometimes through congressional act or stipulations in appropriations. Department heads, in many instances, do not have authority commensurate with their responsibilities. Such bureau autonomy undermines the authority of both the President and the department head. There is therefore a lack of departmental integration in performing the department's major mission.

In addition to this, the Commission went on to state:

The department heads in most cases lack sufficient authority to assign within their departments such responsibility as would promote efficiency and economy.

Then the Commission on Organization in singling out this facet in its report on the Department of Commerce had this to say:

We have urged in our first report that the foundation of good departmental administration is that the Secretary shall have authority from the Congress to organize and control his organization, and that separate authority to subordinates be eliminated.

The pattern which Reorganization Plan No. 5 proposes, and which is similar in the reorganization plans for the major departments enumerated in Reorganization Plans Nos. 1 to 6, has been drafted with the foregoing considerations in mind. The invaluable study and

well-tempered approach manifested in the recommendations of the Commission on Organization impel the adoption of this legislation as a sensible and businesslike approach to basic departmental organization and sound management operations in the governmental service.

Task Force Report

SUMMARY OF DEPARTMENTAL MANAGEMENT, THE COMMISSION ON ORGANIZATION

As a citation in further support for Reorganization Plan No. 5, your committee sets out the following from the Task Force Report on Departmental Management:

Grant of authority

Recommendation No. 5

Department heads should have authority commensurate with the responsibility which they must exercise in the administrative structure of the executive branch.

It is axiomatic that the department head is called upon to assume responsibility for departmental policies and programs and for the over-all efficiency of his departmental operations. In effect, he is necessarily accountable to the President and the Congress for the conduct of his department. It follows that he must also possess the necessary correlative authority, if he is to administer his department in keeping with his responsibility.

Control over organization

The task force went on to state:

Recommendation No. 6

The department heads should have general discretion to determine the operating organization to perform the responsibilities vested in their respective departments.

In this manner the department head can make the occasional adjustments in administrative detail necessary for the proper effectuation of governmental programs. His authority to take action when he is convinced that such energy on his part will promote efficiency and economy in the performance of governmental service will prove both a spur and a challenge. It would be well to note that the Secretaries of State and Agriculture, the Postmaster General, and the Administrator of Veterans' Affairs, already possess such discretion.

Departmental objectives

In the following recommendation the task force emphasized:

The goal of departmental management must be effective direction and supervision of an agency's work in the interest of a common purpose, under defined policies, through methods which insure the necessary work accomplishment in the most efficient possible manner.

They especially noted that—

The quality and the economy of all Government services depend finally upon the department head, and his departmental management.

Bureau authority

Recommendation No. 7

Departmental management, especially in the holding company type of department, is often undermined by bureau "autonomy."

In this connection the task force deplored the instances where the Congress has worked directly with bureaus rather than through department heads:

This has been particularly the case when certain types of new activities have been started with performance vested in some bureau created by law and lodged for some vague reason in a particular department. In these instances all of the authority of the substantive law lies with the bureau chief, not the department head. The authority of the department head for the particular activity depends upon his vague responsibility to supervise his department.

This is of even more compelling implication when frequently a bureau is related by nature but cut adrift to float unmoored within the departmental structure.

Unity in structure

Recommendation No. 12

In order to fulfill its administrative purpose, a department needs well-defined elements of cohesion or unity in departmental structure.

This must obtain if a department is to effect the intention behind its creation. From this perforce, will arise a single policy, a clear program, readily apparent responsibility, and stimulation of leadership and morale.

Exemptions in Reorganization Plan No. 5

Hearing examiners are exempted under the provisions of this plan since their functions are vested by the Administrative Procedure Act (60 Stat. 237). The major purpose of the Administrative Procedure Act was to provide for a separation of the prosecutive and judicial functions. It was the intent of that legislation that where the review was limited to the record and a later action de novo could not be had, impartiality and independence would be preserved through a separation of the prosecutive and judicial functions. Accordingly, in drafting plan No. 5, provision was recited therein for the exclusion of hearing examiners protected by the Administrative Procedure Act.

In plan No. 5, also, the Inland Waterways Corporation and the Advisory Board of the Inland Waterways Corporation are exempted from the operations of this reorganization. This was a deliberate act aimed at the recognition of corporate structure. It is desirable that corporate functions remain associated with the corporate framework. The heads of executive departments presently possess adequate authority over these corporations placed in the respective departments. In these corporations alluded to, the Secretary, as the presiding head, has administrative control and direction of the corporation.

The third and last exemption involves the Civil Aeronautics Board. This body has its functions vested in a board possessing in large measure the qualities of an independent regulatory board, and reposes within the structure of the Department of Commerce largely for housekeeping purposes. In this manner recognition is given to the thesis

that a board can ofttimes prove a more effective instrument for fulfilling responsibilities which are primarily of a regulatory nature.

Practicability of the Transfer of These Functions

Reorganization Plan No. 5 is one segment of a comprehensive program for stepping up the quality and efficiency of administrative practices in the major executive departments. As has been brought out previously, it is one of six similar plans covering the major executive agencies. The goals to be attained for the Commerce Department in organizational structure and authority and responsibility have already been carried out by special legislation in the cases of the Departments of State, Defense, and Post Office. The cornerstone of this design for improved governmental administration is centralization of responsibility and authority in the heads of departments, marked by unmistakably lucid delegations of authority and with assurances for adequate flexibility of organizational structure and administration to meet the needs of changing conditions and circumstances.

In Reorganization Plan No. 5 of 1950 recognition is given to the recommendations of the Commission on Organization, for in their report on the Department of Commerce they stated:

> We have urged in our first report that the foundation of good departmental administration is that the Secretary shall have authority from the Congress to organize and control his organization, and that separate authority to subordinates be eliminated.

It went on to add:

> The Secretary should determine the organization * * * and be free to amend it (p. 6).

The functions of the principal operating agencies of the Department of Commerce are directly vested in bureaus. In this manner are constituted the Bureau of the Census, the Bureau of Foreign and Domestic Commerce, the Weather Bureau, the National Bureau of Standards, the Patent Office, Coast and Geodetic Survey, and the Civil Aeronautics Administration. The Task Force on Departmental Management deplored the instances where the Congress has worked directly with bureaus rather than through department heads:

> This has been particularly the case where certain types of new activities have been started with performance vested in some bureau created by law and lodged for some vague reason in a particular department. In these instances all of the authority of the substantive law lies with the bureau chief, not the department head. The authority of the department head for the particular activity depends upon his vague responsibility to supervise his department.

For sound administration, no bureau related by nature to the role and mission of the Department of Commerce should be allowed to float unmoored within the departmental structure. By force of Reorganization Plan No. 5 the functions of all these agencies recited would be transferred to the Secretary of Commerce. The Secretary by the recent transfer of the Bureau of Public Roads to the Department of Commerce, gained greater scope in his direction and control over this Bureau. Accordingly this legislation would have little effect on that Bureau.

The reorganization plan under discussion would give the Secretary of Commerce power to make necessary changes in the organization

and administration of the Department of Commerce as he deems advantageous for departmental performance in terms of economy and efficiency. However, on the other hand, it should be underscored that no specific change is made mandatory by the provisions of this reorganization plan.

In its proposed departmental structure for the Department of Commerce, the Commission on Organization of the Executive Branch of the Government took cognizance of the Patent Office, as an element and component of the Department (Report on Commerce, p. 7).

Finally, it should be high-lighted that the harmonious relationship existing between the present Secretary and his Bureau heads, resulting in mutual cooperation and collaboration, has brought about a unified approach to the problems of the Department. Yet, it should be understood that this is cooperation based on personalities. There is no statutory basis for it; Reorganization Plan No. 5 would build and assure this foundation through legislative action.

Administrative Aspects Within the Department of Commerce

The purpose of Reorganization Plan No. 5 of 1950 is to spell out with clarity that all functions of all officers of the Department of Commerce and all functions of all agencies and employees of the Department are vested by force of this legislation in the Secretary of Commerce.

The success of such reorganization is grounded on the tenet of proper delegation.

This plan, in common with all plans, 1 through 6, provides for the keystone of sound business management—proper delegation—urgently insisted upon by the Commission on Organization. Successful administration is always spelled out in proper delegation of administrative duties to the staff under the direction of a superior. Further, delegation to subordinates carries with it an added connotation if it is to be truly beneficial to administrative practices. It contemplates the factor of successive redelegations. Where a superior delegates to a bureau head, and the latter must return to the superior for personalized permission for successive redelegation, in the opinion of the committee, such a procedure militates against prompt dispatch and expeditious handling of multiple tasks. There is adequate safeguard against unwarranted usurpation of power in the hands of a subordinate, since each is ultimately in turn responsible to his delegating superior.

At present, generally speaking, the Secretary has broad and somewhat vague power to regulate bureaus in his Department. The tenor of his control, indeed, varies from bureau to bureau and the basis for his control is checkered and unequal. For keener grasp of the functions of the component bureaus of the Department, it would be advantageous to briefly indicate their powers and the present extent of supervisory authority in the Secretary of Commerce.

National Bureau of Standards

This agency has its functions vested in the Bureau; however, the Bureau is "under the jurisdiction and supervision of" the Commerce Department.

Bureau of Foreign and Domestic Commerce

The functions of this agency are vested in the Bureau "under the jurisdiction and supervision of" the Commerce Department.

Bureau of the Census

The functions of this Bureau are vested in the Director of the Census. However, the Bureau operates "under the jurisdiction of" the Department and many of its numerous functions within the Bureau require the approval of the Secretary.

Weather Bureau

The functions of this agency are vested in the Chief of the Weather Bureau, which is "administered under the direction and supervision of the Secretary of Commerce."

Coast and Geodetic Survey

The functions of this agency are vested in the Director of the Coast and Geodetic Survey, but are administered "under the direction of the Secretary of Commerce."

Civil Aeronautics Administration

The functions of this agency are vested in the Administrator of Civil Aeronautics Administration, being "administered under the direction and supervision of the Secretary of Commerce."

Bureau of Public Roads

As a result of recent legislation effecting this transfer to the Department of Commerce, the functions of this Bureau are authorized by law to be "performed by the Secretary or, subject to his direction and control, by such officers, employees, and agencies of the Department of Commerce as the Secretary shall designate."

It will be seen that, in the light of the foregoing, most of the functions of the constituent subordinate agencies within the Department are vested in the heads of those agencies, or in the agencies themselves, and the administration of the functions is subject to varying degrees of supervision, direction, and control by the Secretary, or by the Commerce Department itself.

In addition, these agencies, in reposing within the framework of the Department, have placed the Secretary in a focal point of responsibility with a general aura of authority. Under the Budget and Accounting Act of 1921, the Secretary is responsible for the budget of the entire Department, a most influential instrument. In addition Revised Statutes, section 161, 5 United States Code, section 22 gives the head of the Department the authority to prescribe regulations, not inconsistent with law, for the governing of his Department.

In view of the fact that the paramount objection to plan No. 5 lies in the future basis for administration of the Patent Office, it has been deemed desirable that the salient features of that Office be treated in our report in the accompanying division of the subject matter.

Effect of Plan No. 5 on the Patent Office

In the main, a scrutiny of the testimony and statements on file impel the conclusion that the paramount objections to plan No. 5 are centered in the possible effects of the plan upon the Patent Office.

Briefly, it should be stated that the Patent Office reposed within the province of the State Department from 1793 to 1849, in the Department of the Interior from 1849 to 1925, and has been situated in the Department of Commerce from 1925 to the present day.

A little reference should be had to present authority and supervision by the Secretary in regard to the Patent Office. In the statute which established its present residence it is recognized as being "in the Department of Commerce" (35 U. S. C. 1). In general, as has been previously pointed out, the functions of the Patent Office are vested in the Commissioner, under the direction of the Secretary (35 U. S. C. 6). In addition, the foregoing statute permits the Commissioner of Patents to establish regulations and rules governing the conduct of proceedings in the Patent Office, but states that these rules are subject to the approval of the Secretary of Commerce. The hierarchy of the Patent Office consists of a Commissioner of Patents, one First Assistant Commissioner, two Assistant Commissioners, and nine Examiners in Chief, appointed by the President, by and with the consent of the Senate. One further point should be emphasized:

> All other officers, clerks, and employees authorized by law for the office shall be appointed by the Secretary of Commerce upon the nomination of the Commissioner of Patents in accordance with existing law (35 U. S. C. 2).

The role of the Patent Office is the undertaking of basic responsibility for examining applications for patents and issuing patents upon approval of such applications. The registration of trade-marks is performed in a similar manner. In order to understand the operations of the functions vested in the Patent Office it would be well to describe briefly the basic patent procedure. An application for a patent is referred to one of the 70 Patent Office divisions, which studies the application and searches all prior United States and foreign patents. The division may approve the application if it finds the invention patentable, and a patent is then issued.

If the final decision of the division is adverse, the applicant may appeal to the Board of Appeals of the Patent Office and have an oral hearing. Incidentally, the members of this Board are nominated by the President and confirmed by the Senate. They must be persons of "competent legal knowledge and scientific ability."

From an adverse decision of the Board of Appeals, an appeal may be taken to the United States Court of Customs and Patent Appeals, which may review the case on the basis of the record; or a civil action may be brought against the Commissioner in the United States District Court for the District of Columbia. The district court may consider the case de novo.

The procedure for trade-marks follows in a general way that relating to patent application, except that the internal appeal is to the Commissioner of Patents in person.

During the fiscal year 1949, the Patent Office finally disposed of 76,298 patent applications, and actually issued 34,815 patents. The number of patent interferences terminated was 498. The number of appeals disposed of by the Board of Appeals was 3,388. The Patent Office has approximately 2,000 employees. The Patent Office in former years has been to a large extent financially self-sustaining. However, during the last completed fiscal year, 1949, expenses exceeded income by $4,900,000. Thus the income of the Office in 1949 was only slightly more than half the expenses.

The functions of the Patent Office have many characteristics of judicial actions, in that private rights are involved, the public is a party at interest, and exclusive rights are granted through the issuance of patents under governmental protection to private individuals. Also, much reference has been made during the testimony and in the filed statements presented to your committee of the legislative and judicial functions reposing in the Patent Office. The committee is agreed that this basis of objection to this reorganization plan is without merit. The Administrative Procedure Act, it will be recalled, was enacted to safeguard the exercise of legislative and judicial functions. Independent hearing examiners acting under prescribed procedures in hearings assured impartiality and expertness in hearings required by statutes where legislative or judicial functions were involved. However, the Administrative Procedure Act exempted the Patent Office from the requirement of hearing examiners. This was expressly done at the recommendation of the House and Senate Committees on Judiciary, which stated that—

> Whatever judgment the agency makes is effective only in a prima facie sense at most, and the party aggrieved is entitled to complete judiciary retrial and decision.[1]

Thus an applicant is entitled to a trial de novo from the findings of the patent examiner.

The reorganization plan under discussion in no way limits or restricts the court review of the actions of the Patent Office.

Some concern has been manifested that the delegation of functions to the Secretary might or could transfer the functions of the Patent Office to some unqualified or nontechnical bureau chief within the Department. Along these lines, in rejoinder, it would be well to cite from the testimony of our hearings the words of Secretary Charles Sawyer:

> I have no intention of changing the present procedures or the present powers of the Patent Commissioner or the Patent Office, and I have already announced my intention of authorizing the Commissioner and the Patent Office to continue to carry on their functions in accordance with their present statutory powers. I have prepared a draft of such an order which I would be glad to make available * * *.

In these words we have the statement of the Secretary of Commerce that he would retain the present organization and procedures for the administration of patent affairs, barring a presently unforeseen major defect which would develop in future patent administration.

Some comment has been directed to the susceptibility to political considerations which would inure from the vesting of the proposed transfer of functions under this plan to a Secretary. In the opinion of your committee the exercise of improper influence upon patent determinations or the affairs of the remaining bureaus of the Department is untenable. In the case of the Patent Office, a Secretary and a Commissioner of Patents are appointed in the same fashion and are removable from office in the same manner. By statute no specific background of experience or education is required for occupancy of either office. The comment evoked on this subject presupposes that a Secretary would be enabled to act in some dark or devious

[1] S. Rept. No. 752, 79th Cong., 1st sess., on S. 7, p. 202 of Legislative History of the Administrative Procedure Act, S. Doc. No. 248, 79th Cong., 2d sess.; see also Senate Judiciary Committee Print, June 1945, at pp. 21–22 of S. Doc. No. 248, 79th Cong.; H. Rept. No. 1980, 79th Cong., 2d sess., p. 260 of S. Doc. No. 248, 79th Cong.

manner in some inner recesses of his Department where the light of day could not show. Of course, this is impossible. The actions of a Secretary are subject to public scrutiny. In addition, there is attempted to be ascribed to a Secretary the capacity for arbitrary whim or caprice in the administration of the functions vested in him. Your committee finds that such could not be the case in view of the opportunities for appraisal by the public and the great segment of the business world interested in the affairs of the Department of Commerce. A Secretary would be put in the unrewarding circumstance of defending an indefensible position. Although the plan permits the possibility of transferring these functions to some other officer, a guaranty remains in the accountability of a Secretary for his actions.

In closing, much has been said of the necessity for a skilled and professional background for the administration of the functions of the Patent Office. It should be emphasized that this is true of virtually all of the work of the Commerce Department. The Civil Aeronautics Administration, the Bureau of Standards, the Census Bureau, the Coast and Geodetic Survey, and the Weather Bureau all have important tasks requiring the highest degree of professional skill and conduct. The Civil Aeronautics Administration, in its certification of airmen, aircraft, and air carriers, must exercise a similar semijudicial responsibility. The decision has a financial effect on the company or individual requesting certification; it also affects the property and lives of the public. The granting or denial of applications of export licenses under the Export Control Act also may have semijudicial aspects and may involve great loss or profit to exporter applicants.

During the testimony of our hearings mention was made of the case of *Butterworth* v. *Hoe* (112 U. S. 50, U. S. Supreme Court). The pertinent facts of this case briefly outlined indicate that an applicant for a patent had his application refused by an examiner, and the award was made to another party. The Commissioner of Patents reversed the decision of the Examiner in Chief and awarded the judgment to the original applicant. The loser in this action took an appeal to the Secretary of the Interior (where the Patent Office then resided). The Secretary reversed the decision of the Commissioner. The Supreme Court had to decide the question then whether the Secretary of the Interior could reverse an adjudication of the Commissioner based on the Secretary's authority as the head of the Department to supervise and direct the granting of patents. The Court observed:

> The conclusion cannot be resisted that, to whatever else supervision and direction on the part of the head of the Department may extend, in respect to matters purely administrative and executive they do not extend to a review of the action of the Commissioner of Patents in those cases in which, by law, he is appointed to exercise his discretion judicially. It is not consistent with the idea of judicial action that it should be subject to the direction of a superior, in the sense in which that authority is conferred upon the head of an executive department in reference to his subordinates. Such a subjection takes from it the quality of a judicial act. That it was intended that the Commissioner of Patents, in issuing or withholding patents, in reissues, interferences, and extensions, should exercise quasi-judicial functions, is apparent from the nature of the examinations and decisions he is required to make, and the modes provided by law, according to which, exclusively, they may be reviewed.

Reorganization Plan No. 5 is alleged to have the possibility for overturning this Court decision on the quasi-judicial actions of the Commissioner. It is important to keep a number of considerations in

mind with respect to this phase. First, the quasi-judicial character of the Patent Office is not of such a nature as to make its findings, if supported by substantial evidence, conclusive as is the case in many of our other administrative agencies. No Secretary is going to fly in the face of the incontrovertible weight of evidence, since there is always ability on the part of the applicant to seek a trial de novo in a Federal court. Another important point to be recalled is that this case was decided in 1884. Three years later the Interstate Commerce Commission was created. Now, when we recall that the Interstate Commerce Commission was the first of such administrative, quasi-legislative, and quasi-judicial commissions as we know them today, it is apparent that the earlier Court theory of 1884 did not have the advantage of the backlog of experience with the newer forms of governmental machinery for regulaton, adjudication, and administration.

Lastly, it must be carried constantly in mind that if our major executive agencies are to perform and fulfill the role and mission for which they were created, the program designed for that Department must be supervised and directed from above, and whenever an agency or function is within that Department, the person at the head should have authority commensurate with his responsibility and accountability, and no subordinate should have a separate grant of authority related to that role or mission but independent of the head of that Department.

Conclusions: A Summary

The President, through his Cabinet, is supplied with various viewpoints and specialized knowledge. It is the function of the President to appraise, evaluate, and balance these sources of information for the common good of the Nation. This must necessarily be kept in mind when reading the organic act creating the Department of Commerce. The Department of Commerce was instituted "to foster, promote, and develop the foreign and domestic commerce; the mining, manufacturing, shipping, fishery industry; and the transportation facilities of the United States." Still, the Secretary is obliged by virtue of his oath of office to administer the law in a fair and impartial manner. It is the duty of the Secretary to foster and promote the interests in these areas in the light of their rights and the rights of others under the law. It is the function of the President to coordinate the interests of commerce with the other segments of our national economy.

Reorganization Plan No. 5 provides that, except for functions vested in hearing examiners by the Administrative Procedure Act, and two listed exceptions, all functions vested in any other officer, agency, or employee of the Department of Commerce are transferred to the Secretary of Commerce. The Secretary is given delegative powers carrying with it power for successive redelegations, and provision is included for improved internal administration by regrouping powers vested in the Secretary.

This reorganization plan conforms in particularity to the pattern of organization recommended for each of the executive departments by the Commission on Organization of the Executive Branch of the Government. The structural and organizational framework is on all fours with the design proposed by the President for the Post Office De-

partment and the State Department and approved by the Eighty-first Congress. Finally, it is identical and in no respect different from the parallel plans presently proposed by the President for the Treasury, Justice, Interior, Agriculture, and Labor Departments, as shown by reference to Reorganization Plans No. 1 through No. 6.

The Department of Commerce will not hereby gain any more powers, authority, functions, or responsibilities than are already reposing in it. It will have only the force of centralizing authority in the Secretary, since he is already the repository of its correlatives, responsibility and accountability.

In the Department of Commerce in common with other executive departments an anomalous situation has been engendered in that there have been grants of independent authority to subordinate officials and bureaus within the departmental structure. For their actions the Congress and the public look to the Secretary for responsibility and accountability, but over which the Secretary has no authority. The harmony and cooperation that has thus obtained, however, is based on personal grounds, rather than on the requisite legislative basis that should at all times obtain.

It is not contemplated that the transfer of the functions of the Patent Office to the Secretary will militate against the best interests of the administration of that agency for the benefit of applicants, the public, or the legal profession. The Secretary of Commerce has stated that the Patent Office will continue as it is operating at the present time. Your committee did not feel that the transfer of the functions of this Office to the Secretary would disturb the integrity or impartiality of the judicial functions found therein since an appeal can always be taken to the Federal courts for a trial de novo.

In the light of the recommendations of the Commission on Organization which sanction and urge this unified pattern for sound departmental and organizational management, in the interest of more facile achievement of policy and program, Reorganization Plan No. 5 commends itself for its opportunity for improved efficiency of internal operation, with the inevitable economy attributable thereto. All this will be bolstered by a renewed surge of public confidence in executive departments administered by clearly delineated lines of authority and responsibility. For this plan measures up to the findings and recommendations of the Commission on Organization in the field of departmental management.

Executive departments of similar pattern can have an effect in efficiency and economy upon the entire Federal Government. Freer exchanges of information, speedier adoption of successful management program, together with ease of audit by the General Accounting Office, are but a few of the features that can stem from this reorganization program. Further, Reorganization Plan No. 5 commends itself for the opportunity it presents for improved efficiency of internal operation, and the inevitable economy that must thereby result. On every side this can only serve to increase public confidence in executive departments administered by clearly defined lines of authority and responsibility.

MINORITY REPORT

Reorganization Plan No. 5 [1] proposes to transfer to the Secretary of Commerce all functions of all other officers of the Department of Commerce, except those specifically exempted.

The four agencies whose officers are specifically exempted from the operation of plan No. 5 are the hearing examiners employed by the Department of Commerce; the Civil Aeronautics Board; the Inland Waterways Corporation; and the Advisory Board of the Inland Waterways Corporation.

No explanation is made as to why these bodies or agencies have been exempted, but the Secretary of Commerce in his testimony ventured the explanation that the hearing examiners employed by the Department of Commerce were to be exempted because of the judicial functions which they perform. Perhaps the functions of the Civil Aeronautics Board were also thought to be judicial or quasi judicial in nature and to thus warrant exemption from the operation of the plan. The Secretary has made the point that the inland waterways bodies were exempted because of the corporate form of organization.

Unless rejected, plan No. 5 will, among others, transfer to the Secretary of Commerce all functions of the Patent Office.

By plan No. 5 the Secretary is authorized to redelegate all functions which he acquires by virtue of the plan to such subordinates as he may select.

The Hoover report to the Congress on the Department of Commerce carries on page 8 a "proposed organization" of the Department of Commerce which shows some 16 bureaus or agencies grouped together as parts of the Department of Commerce. In this group is the Patent Office. A number of the other agencies of the group of 16 have for some time been under the general supervision of the Secretary of Commerce while others are for the first time, under plan No. 5, to be placed under the Secretary of Commerce.

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[1] Reorganization Plan No. 5 of 1950, prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949:

DEPARTMENT OF COMMERCE

SECTION 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Commerce all functions of all other officers of the Department of Commerce and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Commerce, nor to the functions of the Civil Aeronautics Board, of the Inland Waterways Corporation, or of the Advisory Board of the Inland Waterways Corporation.

SEC. 2. *Performance of functions of Secretary.*—The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Commerce of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

SEC. 3. *Administrative Assistant Secretary.*—There shall be in the Department of Commerce an Administrative Assistant Secretary of Commerce, who shall be appointed, with the approval of the President, by the Secretary of Commerce under the classified civil service, who shall perform such duties as the Secretary of Commerce shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 4. *Incidental transfers.*—The Secretary of Commerce may from time to time effect such transfers within the Department of Commerce of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

The Patent Office—The Reason For

Evidently believing that genius and effort should be rewarded, the public protected, the framers of the Constitution provided that—

> The Congress shall have power * * * To promote the Progress of science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.[2]

To implement that constitutional provision, as far back as April 10, 1790, the Congress enacted legislation to promote the purpose therein enunciated.

In 1802, the Patent Office was established as a distinct bureau in the Department of State with an official then known as the Superintendent of Patents.

There was a general revision of the patent laws in July of 1836, when the Office was reorganized and the official in charge was designated as Commissioner of Patents.

In 1849, the Patent Office was transferred to the Department of Interior and, in April of 1925, in accordance with statutory authority previously given, it was transferred to the Department of Commerce. It now administers, not only the patent laws, but the Federal trademark laws under 15 United States Code 1051.

Notwithstanding the fact that the Patent Office, its officers, and employees are housed in the Department of Commerce,[3] it has been and is an independent quasi-judicial, quasi-legislative office,[4] with a history running back to the adoption of the Constitution.

The present statute creates the offices of Commissioner of Patents, one First Assistant Commissioner, two Assistant Commissioners, and nine Examiners in Chief appointed by the President by and with the advice and consent of the Senate. All other officers, clerks, and employees are appointed by the Secretary of Commerce upon the nomination of the Commissioner of Patents.[5]

> The Commissioner of Patents, under the direction of the Secretary of Commerce, shall superintend or perform all duties respecting the granting and issuing of patents directed by law; and he shall have charge of all books, records, papers, models, machines, and other things belonging to the Patent Office. He may, subject to the approval of the Secretary of Commerce, from time to time establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office.
>
> The Examiners in Chief shall be persons of competent legal knowledge and scientific ability. The Commissioner of Patents, the First Assistant Commissioner, the Assistant Commissioners, and the Examiners in Chief shall constitute a board of appeals, whose duty it shall be, on written petition of the appellant, to review and determine upon the validity of the adverse decisions of examiners upon applications for patents and for reissues of patents and in interference cases. Each appeal shall be heard by at least three members of the board of appeals, the members hearing such appeal to be designated by the Commissioner. The board of appeals shall have sole power to grant rehearings.[6]

Since 1870 the Patent Office has had a seal of its own.[7]

By subsequent statutory provisions of chapter 1 of title 35 of the code, covering 78 pages, the Congress over the years has attempted to safeguard the integrity of the Patent Office and the procedure govern-

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[2] Art. 1, sec. 8, the Constitution.
[3] 35 U. S. C. 1.
[4] *Butterworth* v. *Hoe* (112 U. S. 50).
[5] 35 U. S. C., sec. 2.
[6] 35 U. S. C., secs 6 and 7.
[7] The seal provided for the Patent Office prior to July 8, 1870, shall be the seal of the Office, with which letters patent and papers issued from the Office shall be authenticated (U. S. C., title 35, sec. 3).

ing the granting and use of patents. The most casual reading of the statutory provisions shows clearly that the Patent Office was created as, and was intended to be, not an executive, but a quasi-judicial, quasi-legislative, office.

No protest has apparently been made to the enactment into law of Reorganization Plan 5 on behalf of any bureau purported to be covered by the plan except the United States Patent Office.

But as to that Office, industry and the entire patent bar have spoken as one in favor of the rejection of the plan, on the ground that the independence and efficiency of that Office should not be destroyed by including the Patent Office in the scope of its operation.

So far as appears, it has not been contended by any person interested in the welfare of the patent system that Reorganization Plan No. 5 is defective in any respect other than that it includes the Patent Office.

No Economy or Increased Efficiency

Industry and the patent bar are unanimous in the approval of all moves for economy and efficiency. But no showing has been made that economies would be realized or efficiency of operation increased by the enactment into law of plan 5 insofar as the operation of the Patent Office is concerned.

The Secretary of Commerce, who should know whether inclusion of the Patent Office in the operation of the plan would promote economy or increased efficiency of operation, has not so stated. That he does not believe that such economies can be effected or that efficiency can be increased is evident from the fact that he has issued assurances to the effect that, if Reorganization Plan 5 becomes law, he will immediately redelegate to the Commissioner of Patents and others in the Patent Office the duties and functions which they now perform.

It is clear that no change in the Patent Office structure is warranted at this time on the theory that economy and increased efficiency will result.

A Judicial Agency

It is doubtful if there is any other executive bureau of the Government—any agency or office—more judicial in its functions than is the United States Patent Office. That its functions are judicial or quasi-judicial in nature is known throughout the land, to the hundreds of thousands of inventors who have received patents, to business, both big and little, to all manufacturers, and to all those who follow the legal profession.

Each application for patent is taken up for examination by an examiner who has especially qualified himself for that purpose. He has been selected by the Patent Office as a result of a written examination prepared by the Patent Office and solely on the basis of his knowledge and ability. Even the subordinate examiners are called upon to decide daily whether or not, in view of all the facts at hand and the applicable law, an applicant for patent has made an invention for which a patent should be issued.

The Patent Office as a whole is engaged daily in establishing or refusing to establish property rights of the citizens—a strictly judicial function. Judicial temperament of the highest quality is required, as is vast experience, extensive training, and a knowledge of the

patent law obtained by careful study of the decisions rendered from time to time by the Federal courts in patent cases.

The Board of Appeals of the Patent Office, comprising nine examiners, the Assistant Commissioners, and the Commissioner, are selected by the President because of special fitness and are confirmed by the Senate after investigation as to fitness. They are versed in the law and are eminently qualified to give proper weight to the many technical facts inherent in all patent decisions.

The Commissioner of Patents and Assistant Commissioners, and many subordinates, are likewise engaged day by day in the examination of applications for registration of trade-marks and, in the trade-mark field, the Commissioner has most important decisions to make.

Again, these decisions of the Commissioner are of a judicial nature, as has been recognized and established by the courts.

One most interesting decision establishing the fact that the Commissioner of Patents is entirely independent of his superior, insofar as his judicial acts are concerned, is the early case of *Butterworth* v. *Hoe* (112 U. S. 50). In that case—and it was decided in 1884—the Court in a unanimous decision called attention to one of the objectives of the patent law. It said:

> The general object of that system is to execute the intention of that clause of the Constitution, article I, section 8, which confers upon Congress the power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." The legislation based on this provision regards the right of property in the inventor as the medium of the public advantage derived from his invention; so that in every grant of the limited monopoly two interests are involved, that of the public, who are the grantors, and that of the patentee. There are thus two parties to every application for a patent, and more, when, as in case of interfering claims or patents, other private interests compete for preference. The questions of fact arising in this field find their answers in every department of physical science, in every branch of mechanical art; the questions of law, necessary to be applied in the settlement of this class of public and private rights, have founded a special branch of technical jurisprudence. The investigation of every claim presented involves the adjudication of disputed questions of fact, upon scientific or legal principles, and is, therefore, essentially judicial in its character, and requires the intelligent judgment of a trained body of skilled officials, expert in the various branches of science and art, learned in the history of invention, and proceeding by fixed rules to systematic conclusions (pp. 58–59).

Then the Court, speaking of the duties and functions of the Commissioner of Patents, said:

> The conclusion cannot be resisted that, to whatever else supervision and direction on the part of the head of the Department may extend, in respect to matters purely administrative and executive they do not extend to a review of the action of the Commissioner of Patents in those cases in which, by law, he is appointed to exercise his discretion judicially. It is not consistent with the idea of judicial action that it should be subject to the direction of a superior, in the sense in which that authority is conferred upon the head of an executive department in reference to his subordinates. Such a subjection takes from it the quality of a judicial act. That it was intended that the Commissioner of Patents, in issuing or withholding patents, in reissues, interferences, and extensions, should exercise quasi-judicial functions, is apparent from the nature of the examinations and decisions he is required to make, and the modes provided by law, according to which, exclusively, they may be reviewed (p. 67).

The Secretary of Commerce may or may not be a lawyer but the Commissioners of Patents have always been chosen from the ranks of patent lawyers and, no doubt, on the theory that a patent lawyer of considerable capacity must be in charge of the Patent Office in order that it may function in a proper manner. If it were not for the fact

that the Commissioner must necessarily perform judicial functions, any good administrator could be placed in charge of the Patent Office. But the Commissioner, Assistant Commissioners, members of the board, and other members of the examining corps function as judges in patent matters.

The Commissioner has, among his judicial functions—

(*a*) The right to decide appeals as a member of the board of appeals (35 U. S. C. 7);

(*b*) The right to disbar attorneys (35 U. S. C. 11);

(*c*) The right to determine who shall receive patents (35 U. S. C. 36);

(*d*) The right to decide which invention shall be kept secret and which made public (35 U. S. C. 42);

(*e*) The right to decide whether or not an interference should be declared between two applicants for the same invention (35 U. S. C. 52); and

In trade-mark matters, the Commissioner has—

(*a*) The right to decide who shall receive certificates (15 U. S. C. 1051);

(*b*) The right to decide inter partes controversies between rival applicants for registration (15 U. S. C. 1068);

(*c*) The right to decide all controversies on appeal (15 U. S. C. 1070); and

(*d*) The right to prescribe rules and regulations governing trade-mark registration procedures (15 U. S. C. 1051).

The Commissioner also has certain supervisory functions over which the Secretary of Commerce has presently only a veto power and these functions are of importance, although not as important as his judicial functions. Thus he—

(*a*) Selects his employees, although the Secretary must actually appoint them (35 U. S. C. 2);

(*b*) Makes the rules under which the Patent Office operates, although here the Secretary has a veto power (35 U. S. C. 6); and

(*c*) Performs all duties relative to the lawful issue of patents subject to the direction of the Secretary (35 U. S. C. 6).

These various functions as above set forth will all be transferred to the Secretary of Commerce if the reorganization plan becomes law.

The Secretary of Commerce is a political appointee, a very busy man. No Secretary of Commerce has ever been a patent lawyer and none is likely to be versed in patent law through experience. The Secretary will, therefore, inevitably be forced to exercise his right to redelegate powers to the Commissioner and to others in the Patent Office, as the present Secretary has promised to do. But no Secretary is required by the plan to redelegate the functions which he acquires under the plan to any certain individual in the Patent Office.

The American Way, Our Way

Whatever else may be said of "a profit motive" or "the incentive system," the writers of the Declaration of Independence seemed to feel that ability and the use of it were desirable and to be encouraged.

Few, if any, will argue that we as a people are superior either physically or mentally to those in other lands—in fact, our Nation has often been referred to as the "melting pot of the world." We are of no distinct race, creed, or color but, as a Nation, under our system of

government, we have the greatest degree of individual liberty, freedom of action, and material prosperity possessed by any people. Hence, it must be our system of government rather than our physical or mental characteristics which has made us what we are.

One of the important factors contributing to the attainment of that enviable position in the world is the fact that the Congress has wisely exercised the power given it by the Constitution "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries", when it created the office of Commissioner of Patents, making it a quasi-judicial position, requiring that examiners be men of ability with technical training, insisting that the Office be free from political interference, its decisions reviewable only by the courts.

As to the wisdom of the proposition that, at least for a limited time, the individual who, through the exercise of his talent, created something new and useful should enjoy the benefit of his effort, there was evidently some argument at the time the Constitution was written; otherwise, express protection would not have been given by section 8 of article 1 of that document.

The Patent Question Under Free Trade, published in London in 1864; Copyright and Patents for Inventions—Pleas and Plans for Cheaper Books and Greater Industrial Freedom, published in London, Paris, New York, and Philadelphia in 1883, indicate that the arguments submitted to the writers of the Constitution still continue.

In December of 1941, President Franklin D. Roosevelt, by Executive order, appointed a National Patent Planning Commission, for the purpose of making a study—

> of our existing patent laws and procedure, together with appropriate action taken by a commission familiar with the problems of science, industry, agriculture, labor, and the consumer.

The National Patent Planning Commission in its report stated:

> This system has accomplished all that the framers of the Constitution intended. It is the only provision of the Government for the promotion of invention and discovery and is the basis upon which our entire industrial civilization rests * * * the basic principles of the present system should be preserved.

In recent years, there has been advanced by those who would share the wealth, take from those who have to give to those who have not, established socialism, the proposition that the laws giving and protecting patents and copyrights should be repealed. It has been argued, and by honest and sincere individuals, that even though one may work long and intensely in an effort to discover something new and useful, when successful the result should be freely, without compensation, given to all.

The question as to just how far the Congress and the courts should go under the constitutional power "to promote the progress of science and useful arts" has perplexed the Justices of the United States Supreme Court.

It has been affirmatively established by the Court that for a limited period a patentee has a monopoly in the use of his patent. As to just how far the patentee can go by agreement with others in authorizing or limiting by the licenses the use of that patent, raises another question, i. e., whether the agreement violates the Sherman Act prohibiting monopolies.

In the case of *U. S.* v. *Line Material Company* [8] three opinions were written. In the prevailing opinion it was said that it was well settled—

that the possession of a valid patent or patents does not give the patentee any exemption from the provision of the Sherman Act beyond the limits of the patent monopoly.

Mr. Justice Douglas, with whom Justices Black, Murphy, and Rutledge concurred, agreeing with the majority in holding the agreement in the Line Material case to be a violation of the Sherman Act, desired to overrule a previous decision of the Court in *U. S.* v. *General Electric Company*,[9] in which it was held that certain price-fixing agreements were not a violation of the Sherman Act, said:

But I would be rid of *United States* v. *General Electric Company.*

Justice Douglas evidently would strictly limit the monopoly given a patentee.[10]

Writing of the attempt of the Government to limit the application of the General Electric case and to make that decision applicable to the case then pending, the dissenting judges wrote:

The long and unfaltering development of our patent law often has been touched upon in our decisions. However, in the face of the direct attack now made upon some of its underlying principles, the infinite importance of our inventions justifies

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[8] 333 U. S. 287.

[9] 272 U. S. 476.

[10] The Justice further said:

"Congress, faithful to that standard, has granted patentees only the 'exclusive right to make, use, and vend the invention or discovery.' * * * And as early as 1853 the Court, speaking through Chief Justice Taney, defined the narrow and limited monopoly granted under the statutes as follows: 'The franchise which the patent grants consists altogether in the right to exclude everyone from making, using, or vending the thing patented, without the permission of the patentee.'

"* * * The effort through the years has been to expand the narrow monopoly of the patent. The Court, however, has generally been faithful to the standard of the Constitution, has recognized that the public interest comes first and reward to inventors second, and has refused to let the self-interest of patentees come into the ascendency. As we stated in *B. B. Chemical Co.* v. *Ellis* (314 U. S. 495, 498), 'The patent monopoly is not enlarged by reason of the fact that it would be more convenient to the patentee to have it so, or because he cannot avail himself of its benefits within the limits of the grant.' From *Motion Picture Patents Co.* v. *Universal Film Mfg. Co.* (243 U. S. 502), which overruled *Henry* v. *A. B. Dick Co.* (224 U. S. 1), to *International Salt Co.* v. *United States* (332 U. S. 392), decided only the other day, the Court has quite consistently refused to allow the patentee's 'right to exclude' to be expanded into a right to license the patent on such conditions as the patentee might choose. For the power to attach conditions would enable the patentee to enlarge his monopoly by contract and evade the requirements of the general law applicable to all property. The philosophy of those decisions was summed up in *Mercoid Corp.* v. *Mid-Continent Investment Co.* (320 U. S. 661, 666), where we said:

" 'The necessities or convenience of the patentee do not justify any use of the monopoly of the patent to create another monopoly. The fact that the patentee has the power to refuse a license does not enable him to enlarge the monopoly of the patent by the expedient of attaching conditions to its use. * * * The patent is a privilege. But it is a privilege which is conditioned by a public purpose. It results from invention and is limited to the invention which it defines. When the patentee ties something else to his invention, he acts only by virtue of his right as the owner of property to make contracts concerning it and not otherwise. He then is subject to all the limitations upon that right which the general law imposes upon such contracts.'

"The Court, however, allowed an exception in this long line of cases. In *United States* v. *General Electric Co.*, supra, decided in 1926, it followed *Bement* v. *National Harrow Co.* (186 U. S. 70), decided in 1902, and sustained a price-fixing provision of a license to make and vend the patented invention. By that decision price-fixing combinations which are outlawed by the Sherman Act (*United States* v. *Socony-Vacuum Oil Co.*, 310 U. S. 150) were held to be lawful when the property involved was a patent. By what authority was this done?

"The patent statutes do not sanction price-fixing combinations. They are indeed wholly silent about combinations. So far as relevant here, all they grant, as already noted, is the 'exclusive right to make, use and vend the invention or discovery' (Rev. Stat., sec. 4884, 35 U. S. C. sec. 40). There is no grant of power to combine with others to fix the price of patented products. Since the patent statutes are silent on the subject, it would seem that the validity of prize-fixing combinations in this field would be governed by general law. And since the Sherman Act outlaws price-fixing combinations it would seem logical and in keeping with the public policy expressed in that legislation to apply its prohibitions to patents as well as to other property. The Court made an exception in the case of these price-fixing combinations in order to make the patent monopoly a more valuable one to the patentee. It was concerned with giving him as high a reward as possible. It reasoned that if the patentee could not control the price at which his licensees sold the patented article, they might undersell him; that a price-fixing combination would give him protection against that contingency and therefore was a reasonable device to secure him a pecuniary reward for his invention. Thus the General Electric case inverted clause 8 of article I, section 8 of the Constitution and made the inventor's reward the prime rather than an incidental object of the patent system.

"In that manner the Court saddled the economy with a vicious monopoly. * * *"

a brief review here of the development and nature of the patent rights attacked. * * *[11]

Mr. Justice Burton, with whom the Chief Justice and Mr. Justice Frankfurter concurred in dissenting, recognizing the attempt to limit the reward given a patentee, called attention to the fact that a patent was—

> * * * a reward for the invention or discovery of something new, something before unknown, something added to the sum total of human knowledge, utility, well-being; something which the inventor or discoverer, despising the lure of money or fame, might have withheld from his fellow men. By the monopoly that goes with a patent, then, the Government recompenses and, for a limited time, protects the inventor or discoverer who gives to the world the use and benefit of his invention or discovery. This is a kind and a degree of mutuality that negatives monopoly in the old or the current concept. Monopoly in the latter sense of the term gave to an individual or a group complete dominion of something already existent. A patent awards monopoly to the producer of something original, something superadded to the common store. So it is that two things bearing the same name need not be of the same nature.
>
> It has been contended that there sometimes occurs a clash between the antitrust laws and the patent statutes. I might suggest that since the first antitrust legislation in 1890, the patent laws and the antitrust laws have coexisted without any irreconcilable conflicts between them. They have each of them at least one common objective; namely, the retention by the public of a right once acquired by it. As a matter of fact, patents accomplished more than the retention of the acquired rights. Their influence is creative; they operate to multiply and expand acquisitions by the public.[12]

The Justice then added:

> The exceptional recent activity in seeking, by statutory amendment, a change in the patent laws as interpreted in the Bement and General Electric cases indicates a widespread understanding that, if such interpretation is to be changed, the remedy calls for congressional action. The resistance to such a change which has been shown by Congress is impressive[30] * * *.[13]

[30] Many bills relating to these issued have been introduced in Congress and referred to appropriate committees. Not one has been reported back to either House of Congress.

As early as 1912, H. R. 22345, 62d Cong., 2d sess., proposed that a patentee be not permitted to fix the price of articles to be sold by others under his patent.

During the hearings held by the Temporary National Economic Committee, the Department of Justice recommended many fundamental as well as minor changes in the patent law. These included the prohibition of price-limiting patent licenses comparable to those here at issue (Preliminary Report, Temporary National Economic Committee, S. Doc. No. 95, 76th Cong., 1st sess., pp. 16–17 (1939)).

The Department of Commerce took an opposite position. It submitted recommendations for retaining but improving the patent system substantially in accordance with its traditional underlying policies. The Final Report of the Temporary National Economic Committee incorporated the substance of the proposals of the Departent of Justice. It included a recommendation that patentees be not permitted to limit the price at which a licensee might sell a product made under the license (Final Report, Temporary National Economic Committee, S. Doc. No. 35, 77th Cong., 1st sess., pp. 36–37 (1941)).

In 1941, the President appointed the National Patent Planning Commission to submit recommendatons on questions dealt with in the report. * * * In 1943, among the examples of the proposed reforms which it concluded "would not be a beneficial innovation in our patent system," it listed "outlawing certain limitations in patent licenses, * * *." This evidently referred to the above-mentioned proposals of the Temporary National Economic Committee to outlaw price restrictions and other limitations in patent licenses (Report of the National Patent Planning Commission, H. Doc. No. 239, 78th Cong., 1st sess., p. 9 (1943)).

Bills to the same general effect as the proposals of the Temporary National Economic Committee have been introduced and referred to committees of Congress but have advanced no further.

Under the authority given it by the Constitution, the Congress has consistently sought to encourage inventions by giving the patentee a limited monopoly and, through the Sherman Act, preventing the misuse of that monopoly. The courts through the years have upheld Congress in that attempt. It would be most unwise, by the indirect method proposed in this plan, to make it possible for a political appointee to destroy the established legislative and judicial policy with reference to patents.

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[11] 333 U. S. 331, 332.
[12] 333 U. S. 338, 339.
[13] 333 U. S. 362.

To date, the Patent Office has been and now is a quasi-judicial office. It has served the inventor and the public with ability and fairness.

Plan No. 5 would discard the method of dealing with patents as it has been established by the Congress and the courts, destroy the judicial character of the Patent Office, make it a part of, and subject to, a political appointee.

The Secretary of Commerce is a busy man. Obviously, he has no time to himself perform the functions of a Commissioner of Patents or of any member of that organization, nor does the plan contemplate that he shall perform any of those functions. If the plan becomes law, he is authorized to, and necessarily he must, redelegate those functions to individuals of his own choosing.

While the statute creating the Department of Commerce outlines and circumscribes some of the duties of the Secretary of Commerce, he is nevertheless a part of, and subject to and guided by a political machine. Under the two-party system of government, that is to be expected—it is inevitable. A political party operates from the top down and the Secretary of Commerce can but carry out, implement, the political philosophy of his party.

A Henry Wallace was once Vice President. But for a turn in fortune's wheel he might have been President. He was Secretary of Commerce. Most people are familiar with some of Henry Wallace's political theories. Had plan No. 5 been in effect when he was Secretary of Commerce, would he, who advocated the killing of little pigs, the plowing under of crops, the giving of a pint of milk to everyone in the wide, wide world, have been an advocate of legislation to repeal the laws protecting patents and trade-marks?

Economy and efficiency are desirable, but far more desirable and essential to people who would be free is the integrity and independence of those who interpret and administer our laws. As suggested by Justice Brandeis, efficiency and economy mean little to the individual who has lost his freedom of action.

Plan No. 5 should be rejected, for it gives no promise of either efficiency or economy, it would destroy the integrity of an agency which has functioned without serious criticism, which has promoted the progress of science and useful arts, encouraged the able and industrious, while, at the same time, it has protected the public.

Plan No. 5 should be rejected by an affirmative vote for House Resolution 546.

Respectfully submitted.

CLARE E. HOFFMAN.

○

Union Calendar No. 741

81ST CONGRESS
2D SESSION

H. RES. 546

[Report No. 1976]

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 1950

Mr. BRYSON submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 2, 1950

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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RESOLUTION

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 5 transmitted to Congress by the President on May 13, 1950.

Union Calendar No. 741

81ST CONGRESS
2D SESSION

H. RES. 546

[Report No. 1976]

RESOLUTION

Disapproving Reorganization Plan
Numbered 5.

By Mr. BRYSON

APRIL 20, 1950

Referred to the Committee on Expenditures in the Executive Departments

MAY 2, 1950

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Calendar No. 1570

81st Congress, 2d Session | SENATE | Report No. 1561

REORGANIZATION PLAN NO. 5 OF 1950, PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF COMMERCE

May 16 (legislative day, March 29), 1950.—Ordered to be printed

Mr. McClellan, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

together with the

INDIVIDUAL VIEWS OF MR. BENTON

[To accompany S. Res. 259]

The Committee on Expenditures in the Executive Departments, to whom was referred Senate Resolution 259, expressing disapproval of Reorganization Plan No. 5 of 1950, report the resolution without recommendation. The effect of the adoption of the resolution will be to prevent Reorganization Plan No. 5 of 1950 from becoming effective.

The committee took this action upon Senate Resolution 259 in executive session on May 9, 1950, by a vote of 7 to 4, with two members abstaining.

In reporting Senate Resolution 259 without recommendation, the committee wishes to stress the fact that this action is in no way to be construed as being in opposition to the plan or in favor of the plan. The committee does not wish its action to be taken as being in any way opposed to recommendations made by the Hoover Commission in connection with reorganizations in the Department of Commerce. Because of the significance of the proposals and the contentions made at the hearings before the committee regarding the serious implications involved in the transfer of the judicial functions of the Patent Office to the Secretary of Commerce, the committee desires to present the facts herein impartially for the determination of the Senate.

Under the provisions of the Reorganization Act of 1949, approved June 20, 1949 (Public Law 109, 81st Cong.), this plan will take effect upon the expiration of 60 calendar days of continuous session of Congress after the plan is transmitted, unless by affirmative vote by a majority of the authorized membership of either of the two Houses a resolution of disapproval is passed, stating in substance that that

House does not favor the reorganization plan. Because the House of Representatives has been in interrupted session, the following provision of section 6 (b) of the act applies:

> In the computation of the sixty-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

The House of Representatives, with the approval of the Senate, having been in recess from April 6 to 18, 1950, under authority of House Concurrent Resolution No. 193, the effective date of plan No. 5 will be May 24, 1950, unless it is disapproved.

PROVISIONS AND EFFECT OF PLAN NO. 5 OF 1950

Section 1 of plan No. 5 transfers to the Secretary all functions scattered throughout the Department of Commerce, except the functions of hearing examiners, of the Civil Aeronautics Board, and of the Inland Waterways Corporation and the Inland Waterways Corporation Advisory Board. The three other sections of plan No. 5 authorize the Secretary to delegate functions, to appoint an Administrative Assistant Secretary, with the approval of the President, under the classified civil service at an annual salary of $14,000; and to make those transfers of records, property, personnel, and funds which are required to carry out this plan. The complete text of plan No. 5 is given in appendix A.

The following tabulation lists the personnel of the major operating units of the Department of Commerce in the order of the number of employees on January 1, 1950:[1]

	Number of employees
1. Civil Aeronautics Administration (field, 15,719)	17, 785
2. Weather Bureau (field, 6,658)	7, 726
3. Bureau of the Census (field, 2,622)	6, 019
4. Bureau of Public Roads (field, 3,124)	3, 946
5. National Bureau of Standards	3, 167
6. Coast and Geodetic Survey	2, 337
7. Patent Office	2, 000
8. Bureau of Foreign and Domestic Commerce (field, 406)	1, 825
9. Inland Waterways Corporation	737
10. Office of the Secretary	661
Total employees	46, 206

The responsibility of administering the above list of operating units is vested mainly in the units themselves, except in the case of the central staff units, and of the rather large Bureau of Public Roads, as to which the functions are already wholly or largely vested in the Secretary of Commerce. Under plan No. 5, all of these functions would go to the Secretary except in the case of hearing examiners, the Inland Waterways Corporation, and the advisory board of that Corporation. The present statutory background of the subordinate agencies of the Department of Commerce is summarized in the next section of this report.

Plan No. 5 also makes an exception of the Civil Aeronautics Board. That Board is not included above, however, because it is only a part of the Department of Commerce for a few housekeeping functions

[1] As listed in Senate committee Rept. No. 9 on Organization of Federal Executive Departments and Agencies, January 1, 1950, compiled by the Senate Committee on Expenditures in the Executive Departments.

specified by law. Actually, the Civil Aeronautics Board exercises its basic functions—

> of rule-making (including the prescription of rules, regulations and standards), adjudication, and investigation independently of the Secretary of Commerce * * * (5 U. S. C. 133¼).

Plan No. 5 does not cover various recommendations of Hoover Commission Report No. 10 on the Department of Commerce, as listed in a later section of this report.

STATUTORY BACKGROUND OF FUNCTIONS OF DEPARTMENT OF COMMERCE

The most important statutes vesting functions and powers in the constituent subordinate agencies of the Department of Commerce are summarized below.

It must be borne in mind that these statutes do not in all cases give the complete picture. In general, the Secretary has supervisory authority over the administration of the functions of the subordinate agencies. In some cases the statutes do not define supervisory authority explicitly. In other cases that authority is modified or restricted by judicial decisions or administrative opinions.

Weather Bureau (*act of October 1, 1890, ch. 1266, sec. 3, 26 Stat. 653*).—Provides that the Chief of the Weather Bureau shall have charge of forecasting weather, displaying weather signals, issuing storm warnings, etc.

Civil Aeronautics Administration (*1940 Reorganization Plan No. III, sec. 7, effective June 30, 1940, 5 F. R. 2107, 54 Stat. 1231*).—Provides that certain specified functions relating to civil aeronautics shall be vested in the Administrator of Civil Aeronautics.

Bureau of the Census (*act of March 6, 1902, ch. 139, sec. 3, 32 Stat. 51*).—Establishes a permanent Census Office (now Bureau of the Census), with its duties to be superintended and directed by the Director of the Census.

National Bureau of Standards (*act of March 3, 1901, ch. 872, 31 Stat. 1449*).—Establishes an Office of Standard Weights and Measures (now the National Bureau of Standards), with its equipment and the exercise of its functions to be under the supervision of a Director.

Bureau of Foreign and Domestic Commerce (*act of August 23, 1912, ch. 350, sec. 1, 37 Stat. 407*).—Establishes the Bureau of Foreign and Domestic Commerce, with duties of fostering, promoting, and developing commerce by gathering and publishing statistical information to be performed by that Bureau.

Coast and Geodetic Survey (*act of August 6, 1947, ch. 504, sec. 1, 61 Stat. 787*).—Defines the functions and duties of the Coast and Geodetic Survey, with the provision that the Director of the Coast and Geodetic Survey is authorized to conduct the activities specified.

Patent Office (*act of July 8, 1870, ch. 230, 16 Stat. 198*).—Establishes the Patent Office in the Department of the Interior, imposing upon the Commissioner of Patents the duty of superintending or performing all the duties respecting the granting and issuing of patents.

Bureau of Public Roads (act of July 11, 1916, ch. 241, 39 Stat. 355).—Authorizes the Secretary of Agriculture to cooperate with the States in the construction of roads, and to make rules and regulations for carrying out the provisions of the act. In accordance with this authority, the Secretary of Agriculture established the Office of Public Roads and Rural Engineering (now the Bureau of Public Roads) to carry out these functions.

HOOVER COMMISSION RECOMMENDATIONS

The paramount importance placed by the Hoover Commission on clarity of lines of authority is demonstrated time and again in its reports. That major thesis is first developed in general terms in the text and recommendations of Report No. 1 on general management, and is then followed up in the separate reports dealing with individual functions or agencies of the Federal Government.

Report No. 1, on general management

The introductory chapter of Hoover Commission Report No. 1, on general management, opens with the following paragraphs:

> In this part of its report, the Commission on Organization of the Executive Branch of the Government deals with the essentials of effective organization of the executive branch. Without these essentials, all other steps to improve organization and management are doomed to failure * * *.
>
> Definite authority at the top, a clear line of authority from top to bottom, and adequate staff aids to the exercise of authority do not exist. Authority is diffused, lines of authority are confused, staff services are insufficient. Consequently, responsibility and accountability are impaired.
>
> To remedy this situation is the first and essential step in the search for efficiency and economy in the executive branch of the Federal Government.

There follow the four numbered recommendations from the same report relative to centralization of functions and an adequate supervisory staff:

> 14. Under the President the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.
>
> 16. Department heads must have adequate staff assistance if they are to achieve efficiency and economy in departmental operations.
>
> 18. Each department head should receive from the Congress administrative authority to organize his department * * *.
>
> 20. We recommend that the department head should be given authority to determine the organization within his department * * *.

Report No. 10, on the Department of Commerce

The above recommendations of general applicability are then developed specifically for the Department of Commerce in Hoover Commission Report No. 10, on the Department of Commerce, as follows:

> We have urged in our first report that the foundation of good departmental administration is that the Secretary shall have authority from the Congress to organize and control his organization, and that separate authority to subordinates be eliminated.

Recommendations not included in plan No. 5

Plan No. 5 relates only to the centralization of authority in the Secretary of Commerce over his Department, and does not cover other recommendations in Hoover Commission Report No. 10, on the

Department of Commerce, which proposes (1) a grouping of major Federal nonregulatory transportation activities; [2] (2) transfer to the department of business operations of the Maritime Commission,[2] of Public Roads Administration, of railroad safety and consolidation, of the Office of Defense Transportation, and of commercial fishery activities; (3) a study of the Department's absorbing the marine functions of the Customs Department; (4) establishing a Bureau of Civil Aviation with CAA, CAB, and NACA functions; (5) coordinating Weather Bureau within the Department; (6) assigning establishment of transportation routes to the Secretary; [2] and (7) establishing an interdepartmental committee.

TESTIMONY FOR AND AGAINST PLAN NO. 5

At the committee hearings on plan No. 5, held on April 27, 1950, three witnesses appeared in opposition to Senate Resolution 259, which proposes disapproval of Reorganization Plan No. 5. They were Frederick J. Lawton, Director of the Bureau of the Budget; Hon. Charles Sawyer, Secretary of Commerce; and Arthur S. Flemming, president of Ohio Wesleyan University and former member of the Hoover Commission.

A number of witnesses appeared in favor of the subject resolution, insofar as the plan includes the semijudicial activities of the Patent Office within the proposed plan of centralized control by the Secretary over all functions and agencies in the Department of Commerce. This approach was uniformly developed by Lawrence C. Kingsland, Commissioner of Patents during the 27 months ending last December; George E. Folk, adviser to the committee on patents and research of the National Association of Manufacturers; Fritz Lanham, representing the National Patent Council; and Henry R. Ashton, president of the American Patent Law Association. Mr. Ashton made the principal arguments for his association, presented various resolutions protesting adoption of plan No. 5 unless the Patent Office is excluded, and prepared the way for briefer remarks by the following regional and other representatives: Albert R. Teare, section of patents, trade-marks, and copyright law of the American Bar Association; Sylvester J. Liddy, counsel, United States Trademark Association of New York City; Norman N. Holland, on behalf of the New York Patent Law Association; John A. Blair, president of the Chicago Patent Law Association; and James T. Kline, of the Connecticut Patent Law Association.

The general principles of plan No. 5 were endorsed by all witnesses at the hearings. The only major difference of opinion arose over the propriety of including the activities of the Patent Office within the scope of the plan.

Support for Senate Resolution 259

Senator Wiley, sponsor of Senate Resolution 259, expressed that difference of opinion in terms of the plan—

> giving a blank check to some future Secretary of Commerce to reorganize the judicial and semijudicial duties of the Patent Office.

Other opponents of plan No. 5 stressed the fine results obtained for many years from the present organization and control of the Patent

[2] Reorganization Plan No. 21 of 1950 affects these recommendations, and will be more fully developed in the report on that plan.

Office. They also emphasized the danger of subjecting that agency, with its great need for skilled direction and personnel, to the authority of a Secretary of Commerce who would have neither the time nor training to do as good a job as is now being done.

Proponents of the resolution further contended that Reorganization Plan No. 5 improperly disturbs, and under certain circumstances might seriously impair, the highly successful conduct of the judicial activities of the Patent Office which was first set up in a special bureau in 1802. They did not agree that the advantages expressed in general terms, arising from the improvement of administrative procedures in the Department of Commerce as a whole, would justify a possible major upset in a patent system, which they stated is the best in the world.

The Secretary of Commerce, in testifying before the committee in favor of the plan, stated that if granted the authority which it proposes, he would maintain the present status quo of the Patent Office by redelegating back all functions to the Commissioner of Patents on the same basis as at present. This willingness to redelegate without change, opponents of the plan agreed, would remove any serious objection which proponents might have to exemption of the Patent Office from the general provisions of the plan.

Statements were made at the hearings that: (*a*) The provision relating to the transfer of the functions of the Patent Office to the Secretary of Commerce would effect no improvement of administration or economies; and (*b*) this plan, as it would apply to the functions of the Patent Office, does not fall within any of the purposes specified in section 2 (a) of the Reorganization Act of 1949, relating to better execution of the laws, increase in the efficiency of operations, consolidation of functions according to major purposes, reduction of the number of agencies, and the elimination of both overlapping and duplication of effort.

Representatives of various regional groups of patent lawyers who gave vigorous support to the disapproving resolution frequently quoted from the 1884 decision of the Supreme Court in *Butterworth* v. *Hoe* (112 U. S. 50). In that case the Commissioner of Patents had reversed the decision of his chief examiner as to the granting of a patent. The Commissioner was in turn upset by the Secretary of the Interior in whose Department the Patent Office was then situated. The Supreme Court intervened in the following decision, which ruled that the Secretary of the Interior could not reverse an adjudication of the Commissioner. The Court stated:

> The general object of that system is to execute the intention of that clause of the Constitution, article I, section 8, which confers upon Congress the power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." The legislation based on this provision regards the right of property in the inventor as the medium of the public advantage derived from his invention; so that in every grant of the limited monopoly two interests are involved, that of the public, who are the grantors, and that of the patentee. There are thus two parties to every application for a patent, and more, when, as in case of interfering claims or patents, other private interests compete for preference. The questions of fact arising in this field find their answers in every department of physical science, in every branch of mechanical art; the questions of law, necessary to be applied in the settlement of this class of public and private rights, have founded a special branch of technical jurisprudence. The investigation of every claim presented involves the adjudication of disputed questions of fact, upon scientific or legal principles, and is, therefore, essentially judicial in its character, and requires the

intelligent judgment of a trained body of skilled officials, expert in the various branches of science and art, learned in the history of invention, and proceeding by fixed rules to systematic conclusions (pp. 58–59).

With reference to the duties and functions of the Commissioner of Patents, the Court then stated:

The conclusion cannot be resisted that, to whatever else supervision and direction on the part of the head of the Department may extend, in respect to matters purely administrative and executive they do not extend to a review of the action of the Commissioner of Patents in those cases in which, by law, he is appointed to exercise his discretion judicially. It is not consistent with the ideal of judicial action that it should be subject to the direction of a superior, in the sense in which that authority is conferred upon the head of an executive department in reference to his subordinates. Such a subjection takes from it the quality of a judicial act. That it was intended that the Commissioner of Patents, in issuing or withholding patents, in reissues, interferences, and extensions, should exercise quasi-judicial functions is apparent from the nature of the examinations and decisions he is required to make, and the modes provided by law, according to which, exclusively, they may be reviewed (p. 67).

On the basis of this decision the representatives of various regional groups of patent lawyers argued vigorously in support of the disapproving resolution, as follows:

The wisdom of the policy of the Congress, uniformly adhered to for over a century, in confiding such judicial functions to a specifically designated official who could be, and uniformly has been, selected for his acquaintance with and devotion to the patent system, is obvious. The shelves of bound volumes of decisions of the Commissioners of Patents in our law libraries are a monument to that wisdom, and to the integrity and intelligence of a long line of highly respected Commissioners.

Opposition to Senate Resolution 259

Opponents of Senate Resolution 259 emphasized that plan No. 5 properly applied to all parts of the Commerce Department, and not only to the very small Patent Office on which so much attention is concentrated, the most basic recommendations of the Hoover Commission reports which have been recited above. Thus, the same pattern was followed of fixing responsibility in department heads under all of Reorganization Plans Nos. 1–6 of 1950, applicable to Treasury, Justice, Interior, Agriculture, Commerce, and Labor Departments. Similar action was taken last year in connection with the three other Cabinet departments, by reorganization plan for the Post Office Department, and by statute for the State and Defense Departments. Moreover, plans 7–13 apply the same basic recommendations, with appropriate modification in such cases, to the various regulatory commissions of the Federal Government.

In this general setting and application, the Secretary of Commerce testified as follows with specific reference to plan No. 5:

Based upon my experience, it is difficult for me to believe that any business concern would give to subordinate officials authorities independent of the responsible head of the firm. Likewise, I do not believe that any business concern would be inclined to freeze organizational arrangements so as to make it impossible to adjust to changing conditions and new circumstances. There is no doubt in my mind that plan No. 5 is sound in theory and in practice.

Both opponents and proponents agree on the general desirability under these plans of concentrating ultimate responsibility over relevant functions in department heads, and not scattering it among subordinate agencies. With relation to the insistence of opponents of plan No. 5 that the Patent Office should be specially exempted, the Budget Director emphasized that to do so—

would have opened up a number of other questions with regard to agencies and functions equally deserving of consideration, and the total effect thereof would have tended to so clutter up the reorganization program with exemptions as to seriously detract from its sound basis and fundamental merit.

The general rule with relation to exemptions was only to do so in connection with hearing examiners and with independent Government corporations and similar agencies.

The Secretary of Commerce discussed in detail at the hearing the repeated argument of the proponents of Senate Resolution 259 that the Patent Office exercises semijudicial functions not properly under Plan No. 5. He first agreed on the need for skilled and professional conduct in protecting both public and private rights in the issuance of patents. But he insisted that other bureaus in the Department of Commerce also—

have important duties involving the rights and privileges of the public and affecting their safety and lives. Other bureaus of the Department also carry on their activities with very high professional standards.

The Civil Aeronautics Administration must exercise semijudicial responsibility in certifying airmen, aircraft, and air carriers on questions involving both property and lives. Similarly, denial of applications for export licenses under the Export Control Act may have semijudicial aspects, and may involve great loss or profit to export applicants.

The Secretary of Commerce described the manner in which the draftsmen of the Administrative Procedure Act had carefully reviewed all governmental activities with a view to separating out legislative or rule-making functions, and judicial or adjudicating functions, and then establishing principles and rules for carrying them out fairly and impartially. Thus procedures were prescribed—

for hearings by independent hearing examiners in cases where hearings were required by statute for legislative or judicial functions. In addition, careful provision was made for court review of such actions.

The Secretary of Commerce emphasizes:

The Administrative Procedure Act, however, exempted the Patent Office from the requirement of hearing examiners. This was done at the recommendation of the Senate and House Committees on the Judiciary which stated that whatever judgment the agency makes is effective only in a prima facie sense at most, and the party aggrieved is entitled to complete judicial retrial and decision. (See S. Rept. No. 752 and S. Doc. 1980, 79th Cong.).

Adding that the judicial appeals now authorized for patent cases are as follows:

An application for a patent is referred to 1 of the 70 Patent Office divisions, which studies the application and searches all prior United States and foreign patents. The division may approve the application if it finds the invention patentable, and a patent is then issued.

If the final decision of the division is adverse, the applicant may appeal to the Board of Appeals of the Patent Office and have an oral hearing. The members of the Board are nominated by the President and confirmed by the Senate. They must be persons of "competent legal knowledge and scientific ability."

From an adverse decision of the Board of Appeals, an appeal may be taken to the United States Court of Customs and Patent Appeals, which may review the case on the basis of the record; or a civil action may be brought against the Commissioner in the United States District Court for the District of Columbia. The district court may consider the case de novo.

The procedure for trade-marks follows in a general way that relating to patent application, except that the internal appeal is to the Commissioner of Patents in person.

With relation to the allegation that plan No. 5 would introduce no new efficiency or economy in the operation of the Department of Commerce, the Secretary testified as follows:

Consideration is also being given to the possible desirability of using the authorities in this plan to effect certain administrative consolidations, particularly in the field. We may, for example, want to consolidate all payroll preparation for all bureaus of the Department in a few centers in the country. We might wish to use the authority also for consolidation of such functions as procurement and warehousing. The obvious objective of such measures would be increased economy and better administrative services. * * *

These examples just stated may serve to illustrate why I feel strongly that there are positive practical benefits to be gained from effectuating Reorganization Plan No. 5. Over and above these concrete possibilities of improvement, I feel that the approval of organization plans such as No. 5 will provide firm evidence that the entire Government takes seriously and believes wholeheartedly in the need for clear-cut legal responsibilities on the part of Cabinet officials. From this I anticipate certain intangible but nevertheless very real advantages in terms of greater internal cohesion within the departments. * * *

Finally, the opponents expressed the fear that Plan No. 5 would result in the shifting of delegations of authorities among bureaus and officials without restraint. On this score, the Secretary of Commerce testified that various forces act as checks and balances against arbitrary organizational changes. He added:

Primary among these is the fact that a large share of existing procedures and policies are set forth in laws. Congressional committees, including especially appropriations committees, are in a position to assert strong influence against unwise organizational modifications, if necessary by formal investigations. The President, or the Director of the Bureau of the Budget acting for him, is in a position to be informed rather intimately concerning current and prospective developments in the various agencies, and might well dissuade a Cabinet official from short-sighted or otherwise unsound organizational changes. In the light of the cumulative impact of these actual and potential pressures it is not realistic to anticipate dangerous actions in terms of arbitrary organizational shifts.

The task-force report, on departmental management, comments as follows on the above consideration:

The granting of organizational authority would probably lead to few immediate changes. No department head is likely to make extensive organizational changes without careful consideration. Confronted on the one hand as he is with the essentiality of Governent activities, and restricted as he is today by general legislation and by the level of public morality from seeking narrow personal and partisan advantage in his position, the department head can be expected to exercise even the broadest discretion carefully and conservatively. Indeed, the charge more generally is made against Secretaries of State, Secretaries of Agriculture, and Postmasters General, among others, that they have been too lax in the exercise of their discretion rather than that they have abused it.

[H. Doc. 509, 81st Cong., 2d sess.]

Appendix A

Message From the President of the United States, Transmitting Reorganization Plan No. 5 of 1950 Providing for Reorganizations in the Department of Commerce

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 5 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of Commerce. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 5 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Administrative Assistant Secretary of Commerce. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 5 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF COMMERCE

SECTION 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Commerce all functions of all other officers of the Department of Commerce and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Commerce, nor to the functions of the Civil Aeronautics Board, of the Inland Waterways Corporation, or of the Advisory Board of the Inland Waterways Corporation.

SEC. 2. *Performance of functions of Secretary.*—The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Commerce of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

SEC. 3. *Administrative Assistant Secretary.*—There shall be in the Department of Commerce an Administrative Assistant Secretary of Commerce, who shall be appointed, with the approval of the President, by the Secretary of Commerce under the classified civil service, who shall perform such duties as the Secretary of Commerce shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 4. *Incidental transfers.*—The Secretary of Commerce may from time to time effect such transfers within the Department of Commerce of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

INDIVIDUAL VIEWS OF MR. BENTON

I do not agree with the committee's decision to report without recommendation the resolution of disapproval of Reorganization Plan No. 5.

The issues here are clear, as they are on similar reorganization proposals from the President. The issues involved stem from the recommendations of the Hoover Commission that departmental authority and responsibility should be centralized in Department heads. The issue is as simple as this on Reorganization Plan No. 5—exactly as on plans 1 through 6, inclusive.

It is my opinion that even the semijudicial functions, when handled under the klieg lights of responsibility directly vested in Department heads, will be far less subject to abuse than when handled in obscurity—as so frequently the case at present—by subordinate officials.

Almost the only witnesses to appear in opposition to plan No. 5 were patent attorneys. As evidence of the kind of opposition which may have influenced the committee's decision to report the resolution without recommendation, I cite the testimony of the representative of the patent committee of the National Association of Manufacturers. This testimony is on page 61 of the hearings. I quoted this testimony in a speech on the floor of the Senate, dealing with Reorganization Plan No. 12 (p. 6951 of the Congressional Record).

I refer to this testimony once more as a clear and striking example of what the Congress is up against in its consideration of the work of the Hoover Commission.

The opposition to the reorganization plans comes from vested groups which do not see the problem of Government efficiency as a whole and which are prepared thoughtlessly or heedlessly to sacrifice the public interest for what they—often mistakenly—deem to be their own interest. Further, the witnesses often claim to speak for groups which they do not truly represent—groups, I am sure, which have only heard the one side and which would favor the reorganization proposals if the many complex issues were adequately presented to them.

The Senate has unfortunately rejected Reorganization Plans Nos. 1 and 12. I urge that the balance of the plans be approved. The resolution to disapprove Reorganization Plan No. 5 should be rejected.

WM. BENTON.

○

Calendar No. 1570

81ST CONGRESS
2D SESSION

S. RES. 259

[Report No. 1561]

IN THE SENATE OF THE UNITED STATES

APRIL 17 (legislative day, MARCH 29), 1950

Mr. WILEY submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, without recommendation

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 5 of 1950 transmitted to Congress by the President on March 13, 1950.

Calendar No. 1570

81ST CONGRESS
2D SESSION

S. RES. 259

[Report No. 1561]

RESOLUTION

Disapproving Reorganization Plan Numbered 5 of 1950.

By Mr. WILEY

APRIL 17 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950
Reported without recommendation

Mr. McCORMACK. Mr. Chairman, reserving the right to object, and, of course I shall not object, I have no recollection of the occasion.

Mr. HOFFMAN of Michigan. It was something complimentary, and the gentleman from Pennsylvania wanted to return the compliment.

Mr. McCORMACK. Under the circumstances, Mr. Chairman, I must withdraw my reservation of objection.

Mr. RICH. The gentleman from Massachusetts and I always exchange compliments.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DAWSON. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. TAURIELLO].

Mr. TAURIELLO. Mr. Chairman, let me express myself at this time as being wholeheartedly and enthusiastically in favor of the President's Reorganization Plan No. 6 of 1950. I am, therefore, in accord with what has been said here today in support of that plan. I sincerely believe it to be a faithful effort to effectuate in the Department of Labor the recommendations of the Hoover Commission. I believe it will improve the efficiency of operation of that Department, particularly with respect to the administration of the Fair Labor Standards Act. I believe that it will be a boon to the businessmen of this country whose employees are covered by the provisions of that act. And I do not for one second believe that this plan will, to the slightest degree, affect the fair, honest, and impartial enforcement of that act.

But, if I may, Mr. Chairman, I would like to direct my comment to one objection which has been raised to this reorganization. It is said that its undesirability is demonstrated by the fact that, on three occasions, the Congress has refused to vest in the Secretary of Labor the duties and functions of the Wage and Hour Administrator. I submit that this is an oversimplification which distorts the true facts.

It is true that when the Fair Labor Standards Act was originally enacted in 1938, the powers of enforcement were lodged in an independent administrator in the Department of Labor. Legislative history shows that this was a compromise between the creation of an independent agency and the vesting of powers under the act in the Secretary of Labor. We should not forget, however, that in those days a Federal wage-and-hour law of such scope was a great experimental voyage on uncharted legislative seas. Congress could well have thought—as it did—that the administrative framework adopted was the most practicable at that time. There may have been personalities involved. But we cannot assume that Congress intended to engraft onto the substantial portions of the law a structural rigidity of administration which was to last for all time to come. Now that the provisions of this great statute have become part of the warp and woof of our commerce and our law, the time has arrived to bring its administration in harmony with the most recent recommendations for the executive branch of our Government.

It is also said that Congress in 1947 rejected Reorganization Plan No. 2 of that year which would have accomplished what the present plan seeks to do. But the statement does not go far enough. It must be remembered that the primary purpose of the 1947 plan was to relocate the United States Employment Service in the Department of Labor. It is clear from the legislative history that this was the principal reason for the disapproval of that plan. It should also be noted that when Congress so acted in 1947, it did not have before it the benefit of the exhaustive study and research which buttress the report of the Hoover Commission.

Finally, it is said that Congress, in enacting the 1949 amendments to the Fair Labor Standards Act, did not change the administration of the act. An inference is claimed that Congress thereby expressed its desire that no change be made. This inference is unwarranted. The Senate Committee on Labor and Public Welfare, in its report on the amendments, stated clearly that "with respect to the proposal to consolidate administration of the Fair Labor Standards Act under the Secretary of Labor, this can as well be accomplished through the exercise by the President of powers conferred upon him by the Reorganization Act of 1949, in the light of the over-all reorganization of Government labor functions envisaged by the Commission on Organization of the Executive Branch of the Government, as in special legislation."

I submit that at no time has Congress unequivocally rejected the change embodied in this plan. For the first time, standing alone, this proposed administrative reorganization is now before the Congress. It has supporting it not only the Secretary of Labor, but the Wage and Hour Administrator himself. It has supporting it the weight of the Hoover Commission report. It has supporting it the principles of good management. It has supporting it not only logic, but experience.

Mr. Chairman, I reiterate my approval of Reorganization Plan No. 6, and urge the rejection of House Resolution 522.

(Mr. TAURIELLO asked and was given permission to revise and extend his remarks.)

Mr. DAWSON. Mr. Chairman, I yield 5 minutes to our distinguished majority leader, the gentleman from Massachusetts [Mr. McCORMACK].

Mr. McCORMACK. Mr. Chairman, the pending resolution has been discussed from every angle on both sides, and the several speakers have addressed themselves to the issue involved. The debate has been on a very high and instructive plane.

The evidence is overwhelming, as I view it, in favor of the reorganization plan of the President being sustained and the disapproving resolution being rejected. This is consistent, as the various speakers have said, with the recommendations of the Hoover Commission. Two million dollars was appropriated by this Congress to enable that Commission to make its investigations, survey, and report. This plan is consistent with efficiency in the executive branch of the Government. It certainly will go a long ways toward taking off the shoulders of the President some of the tremendous tasks that devolve upon him now by law.

There are other departments of the Government in which the same plan has been recommended by President Truman—namely, Justice, Interior, Agriculture, and Commerce—and no disapproving resolutions have been filed against any of those plans, which involve identically the same policy of efficiency in a department as is involved in the reorganization plan relating to the Labor Department. Certainly if this plan is to be rejected the other plans should be rejected.

It seems to me that this is a reorganization which is sound and constructive, and I hope that the disapproving resolution will be rejected, which will mean that the Reorganization Plan No. 6 involved in the resolution pending before the House will go into operation.

Mr. DAWSON. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. LANHAM] to correct the RECORD.

Mr. LANHAM. Mr. Chairman, I want to call attention to a mistake in the report of the hearings on page 45.

The record reads:

> Mr. LUCAS. I am surprised at my friend, HENDERSON LANHAM, quoting from the Wall Street Journal to this committee.
>
> Mr. LANHAM. I read both sides of the street, and try to waltz down the middle.

I was not reported correctly. What I said was:

> I read both sides of the street, and try to walk down the middle.

I would like to have that correction made.

Mr. MADDEN. Mr. Chairman, Reorganization Plan No. 6, as recommended by the Hoover Commission and submitted by the President of the United States, should be ratified by this Congress.

All functions relating to labor-management problems should be under one head and that executive should be the Secretary of Labor. The functions of the Labor Department are executive and the President of the United States was elected by the people to carry on the executive functions of our Government. It is the function of the President to coordinate the interests of management and labor so that these interests will harmonize and be more effective with the other segments of our national economy.

Reorganization Plan No. 6 provides that all functions vested in any other officer, agency, or employee of the Department of Labor are transferred to the Secretary of Labor. This plan conforms and is in the same pattern of streamlining organization which was recommended for each of the other executive departments by the Hoover Commission on Organization of the Executive Branch of the Government.

By adopting this plan, the Department of Labor will not gain any more powers, authority, functions, or responsibility

than it already has. It will merely centralize authority in the Secretary of Labor, where it should be. The public looks to the Secretary of Labor for responsibility and accountability of functions concerning labor-management relations, which are at present outside of his authority and should be placed under his jurisdiction as Reorganization Plan No. 6 provides.

Members who are opposed to this plan feel that it will give the Secretary of Labor additional power, which is not true. Under the present set-up, responsibility for mismanagement and inefficiency in the Wage and Hour Division is thrown on the shoulders of the Labor Department, of which the Secretary of Labor is the head. He receives all criticism for improper functioning of the Wage and Hour Division, although the authority and operating is under a separate executive. Opponents of this plan say that the Wage and Hour Division has done a good job. Only recently the Wall Street Journal, which cannot be classified as a friend of labor or the administration, complained that the present administration of the wage-hour law is being done by a horde of snoopers and so set their opinion out in an editorial.

Robert L. L. McCormick, research director of the Citizens Committee for the Hoover Report, in testifying at the hearings for Reorganization Plan No. 6, stated that the plan should be adopted, and that the responsibility should be under the Secretary of Labor. He further stated that this would place the responsibility solely where it belongs and if it does not function properly, the Secretary of Labor, being the President's appointee, is more directly responsible to the people.

Thus, if there are abuses of the administration of the wage-hour law or of any other law, it becomes a campaign issue and can be taken to the people for ratification or rejection. Under our system of the executive department, the President must delegate this authority down the line and these various department heads are directly responsible to him as he is directly responsible to the people of the country.

The adoption of this plan will merely be another step toward streamlining the operations of our Government and placing into operation the practical recommendations of the Hoover Commission.

Mr. DONOHUE. Mr. Chairman, Reorganization Plan No. 6 does conform specifically to the organizational pattern for each of the executive departments which was expressly recommended by the Commission on Organization of the Executive Branch of the Government. It is identical and in no respect different from the parallel plans proposed by the President for the Departments of Justice, Interior, Agriculture, and Commerce. It is important that we bear in mind that the Department of Labor will not, through this plan, add anything to its present powers, authority, functions, or responsibilities by operation of this legislation. It will accomplish one of the basic needs and long-delayed reforms so essential in the executive branch of the Government, for it will centralize authority in the Secretary of Labor where he is presently the repository for its correlatives, responsibility, and accountability.

A great amount of discussion has been had on the status of the Wage and Hour Administrator. Here we have one of those anomalous situations engendered by compromise, where independent grants of authority to subordinate officials have weakened the structure of the Department.

It is a pertinent point to demonstrate that the Wage and Hour Administrator and the Secretary, both political appointees, confirmed by the Senate, are working together in harmony and cooperation. However, this same harmony and cooperation that has been obtained is based upon the compatible premise of personal grounds, rather than the requisite legislative basis that should underlie such departmental integration.

One last point might be urged. Every examination of the functions of the Wage and Hour Administrator induces the conclusion that he does not act in a quasi-judicial capacity. He has no similarity in his duties to any agency which would require a separation of prosecutive from judicial functions. His determinations are not final; he is merely a plaintiff in the Federal courts attempting appropriate enforcement for a violation of law.

Reorganization Plan No. 6 will not confer upon the Secretary any aura of quasi-judicial powers which involve wage and hour administration.

In the matter of structural organization and the strengthening of the framework of business organization, a direct and attributable answer cannot be made in economy by allusions to dollar-and-cents savings. Economy will essentially flow from increased efficiency, arising out of a delineation of clear-cut authority extending from the very top of the Department to the bottom. Duplication in practices, overlapping personnel and procedures are made patent, and remedial steps auguring well for savings to the taxpayer will result from legislation of this nature. Reorganization must of itself necessarily mean change; but every change should bring progress. Reorganization Plan No. 6 supplies that answer.

The CHAIRMAN. Are there further requests for time? [After a pause.] The Chair hears none.

The Clerk will read the resolution.

The Clerk read as follows:

Resolved, That the House of Representatives does not favor the Reorganization Plan No. 6 of 1950 transmitted to Congress by the President on March 13, 1950.

Mr. DAWSON. Mr. Chairman, I move that the Committee do now rise and report the resolution (H. Res. 522) rejecting Reorganization Plan No. 6 of 1950, back to the House with the recommendation that it be not agreed to.

The motion was agreed to.

Accordingly the Committee rose; and Mr. PRIEST having assumed the chair as Speaker pro tempore, Mr. GARY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration House Resolution 522, directed him to report the same back to the House with the recommendation that it be not agreed to.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, the resolution, not having received the affirmative vote of a majority of the authorized membership of the House, the resolution is not agreed to.

So the resolution was rejected.

DISAPPROVING REORGANIZATION PLAN NO. 5—DEPARTMENT OF COMMERCE

Mr. DAWSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 546) disapproving Reorganization Plan No. 5; and pending that motion I ask unanimous consent that debate on the resolution may continue not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Michigan [Mr. HOFFMAN] and myself.

Mr. HOFFMAN of Michigan. Mr. Speaker, reserving the right to object, and I shall not, I have had no requests for time. I think the debate may be concluded in half an hour, although I am glad to have the reservation of an hour. We will try to get through on this side in 10 minutes.

Mr. DAWSON. And we will try to get through in 10 minutes.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. DAWSON] asks unanimous consent that debate on the resolution continue not to exceed an hour, the time to be equally divided and controlled by the gentleman from Michigan [Mr. HOFFMAN] and himself.

Is there objection?

There was no objection.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Illinois.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 546, disapproving Reorganization Plan No. 5, with Mr. GARY in the chair.

The Clerk read the title of the resolution.

By unanimous consent, the first reading of the resolution was dispensed with.

Mr. DAWSON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the question that now comes up is the same question that was raised in reference to Reorganization Plan No. 6 of 1950. The same arguments that could have been made for rejection of plan No. 6 could be made and will be made upon plan No. 5. The same arguments for plan No. 5 would be the same ones used for plan No. 6. So I am not going to take the time of the committee that has listened to all the arguments, and knows the purpose of these plans.

There is only one difference between the two and that is in the exemption of one or two agencies other than the Board of Examiners. That exemption is made

because of the peculiar nature of the agencies. For instance, in plan No. 5 the Inland Waterways Corporation and the Advisory Board of the Inland Waterways Corporation are exempted from the plan of reorganization. That has been a deliberate act and aimed at recognition of the corporate structure of these particular institutions. The third and last exemption involves the Civil Aeronautics Board. This body has its functions vested in a board possessing in large measure the qualities of an independent regulatory board, and reposes within the structure of the Department of Commerce largely for housekeeping purposes. So for that reason the exemption was made.

I am going to ask, Mr. Chairman, that we vote "nay" on House Resolution No. 546, rejecting Reorganization Plan No. 5 of 1950.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield myself 5 minutes.

(Mr. HOFFMAN of Michigan asked and was given permission to revise and extend his remarks.)

Mr. HOFFMAN of Michigan. Mr. Chairman, there is no use in taking other than a realistic view of the situation as it is here today. Apparently there is no disposition to carry on an effective opposition to any of these reorganization plans. I have done my part by attending the hearings in preparing reports.

In answer to the gentleman from Illinois, I do want to say this plan No. 5 does exempt the Civil Aeronautics Board, but if you will take a look at plan No. 13 you will find that the President grabs it there. I cite that to show the hypocrisy in the method of treating the Hoover recommendations.

Reorganization Plan No. 5 of 1950, prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 proposes to transfer to the Secretary of Commerce all functions of all other officers of the Department of Commerce, except those specifically exempted, as follows:

DEPARTMENT OF COMMERCE

SEC. 1. Transfer of functions to the Secretary: (a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Commerce all functions of all other officers of the Department of Commerce and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Commerce, nor to the functions of the Civil Aeronautics Board, of the Inland Waterways Corporation, or of the Advisory Board of the Inland Waterways Corporation.

SEC. 2. Performance of functions of secretary: The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Commerce of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

SEC. 3. Administrative Assistant Secretary: There shall be in the Department of Commerce an Administrative Assistant Secretary of Commerce, who shall be appointed, with the approval of the President, by the Secretary of Commerce under the classified civil service, who shall perform such duties as the Secretary of Commerce shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 4. Incidental transfers: The Secretary of Commerce may from time to time effect such transfers within the Department of Commerce of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

The four agencies whose officers are specifically exempted from the operation of plan No. 5 are the hearing examiners employed by the Department of Commerce; the Civil Aeronautics Board; the Inland Waterways Corporation; and the Advisory Board of the Inland Waterways Corporation.

No explanation is made as to why these bodies or agencies have been exempted, but the Secretary of Commerce in his testimony ventured the explanation that the hearing examiners employed by the Department of Commerce were to be exempted because of the judicial functions which they perform. Perhaps the functions of the Civil Aeronautics Board were also thought to be judicial or quasi judicial in nature and to thus warrant exemption from the operation of the plan. The Secretary has made the point that the inland waterways bodies were exempted because of the corporate form of organization.

Unless rejected, plan No. 5 will, among others, transfer to the Secretary of Commerce all functions of the Patent Office.

By plan No. 5 the Secretary is authorized to redelegate all functions which he acquires by virtue of the plan to such subordinates as he may select.

The Hoover report to the Congress on the Department of Commerce carries on page 8 a proposed organization of the Department of Commerce which shows some 16 bureaus or agencies grouped together as parts of the Department of Commerce. In this group is the Patent Office. A number of the other agencies of the group of 16 have for some time been under the general supervision of the Secretary of Commerce while others are for the first time, under plan No. 5, to be placed under the Secretary of Commerce.

THE PATENT OFFICE—THE REASON FOR

Evidently believing that genius and effort should be rewarded, the public protected, the framers of the Constitution provided that—

The Congress shall have power * * * to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.[1]

To implement that constitutional provision, as far back as April 10, 1790, the Congress enacted legislation to promote the purpose therein enunciated.

In 1802, the Patent Office was established as a distinct bureau in the Department of State with an official then known as the Superintendent of Patents.

[1] Art. I, sec. 8, the Constitution.

There was a general revision of the patent laws in July of 1836, when the Office was reorganized and the official in charge was designated as Commissioner of Patents.

In 1849, the Patent Office was transferred to the Department of Interior and, in April of 1925, in accordance with statutory authority previously given, it was transferred to the Department of Commerce. It now administers, not only the patent laws, but the Federal trade-mark laws under Fifteenth United States Code, page 1051.

Notwithstanding the fact that the Patent Office, its officers, and employees are housed in the Department of Commerce—Thirty-fifth United States Code, page 1—it has been and is an independent quasi-judicial, quasi-legislative office—*Butterworth* v. *Hoe* (112 U. S. 50)—with a history running back to the adoption of the Constitution.

The present statute creates the offices of Commissioner of Patents, one First Assistant Commissioner, two Assistant Commissioners, and nine Examiners in Chief appointed by the President by and with the advice and consent of the Senate. All other officers, clerks, and employees are appointed by the Secretary of Commerce upon the nomination of the Commissioner of Patents—Thirty-fifth United States Code, section 2.

The Commissioner of Patents, under the direction of the Secretary of Commerce, shall superintend or perform all duties respecting the granting and issuing of patents directed by law; and he shall have charge of all books, records, papers, models, machines, and other things belonging to the Patent Office. He may, subject to the approval of the Secretary of Commerce, from time to time establish regulations, not inconsistent with law, for the conduct of proceedings, in the Patent Office.

The Examiners in Chief shall be persons of competent legal knowledge and scientific ability. The Commissioner of Patents, the First Assistant Commissioner, the assistant commissioners, and the Examiners in Chief shall constitute a board of appeals, whose duty it shall be, on written petition of the appellant, to review and determine upon the validity of the adverse decisions of examiners upon applications for patents and for reissues of patents and in interference cases. Each appeal shall be heard by at least three members of the board of appeals, the members hearing such appeal to be designated by the Commissioner. The board of appeals shall have sole power to grant rehearings.[2]

Since 1870 the Patent Office has had a seal of its own. The seal provided for the Patent Office prior to July 8, 1870, shall be the seal of the Office, with which letters patent and papers issued from the Office shall be authenticated—United States Code, title 35, section 3.

By subsequent statutory provisions of chapter 1 of title 35 of the code, covering 78 pages, the Congress over the years has attempted to safeguard the integrity of the Patent Office and the procedure governing the granting and use of patents. The most casual reading of the statutory provisions shows clearly that the Patent Office was created as, and was intended to be, not an executive, but a quasi-judicial, quasi-legislative office.

No protest has apparently been made to the enactment into law of Reorgani-

[2] 35 U. S. C., secs. 6 and 7.

zation Plan 5 on behalf of any bureau purported to be covered by the plan except the United States Patent Office.

But as to the Office, industry and the entire patent bar have spoken as one in favor of the rejection of the plan, on the ground that the independence and efficiency of that Office should not be destroyed by including the Patent Office in the scope of its operation.

So far as appears, it has not been contended by any person interested in the welfare of the patent system that Reorganization Plan No. 5 is defective in any respect other than that it includes the Patent Office.

NO ECONOMY OR INCREASED EFFICIENCY

Industry and the patent bar are unanimous in the approval of all moves for economy and efficiency. But no showing has been made that economies would be realized or efficiency of operation increased by the enactment into law of plan 5 insofar as the operation of the Patent Office is concerned.

The Secretary of Commerce, who should know whether inclusion of the Patent Office in the operation of the plan would promote economy or increased efficiency of operation, has not so stated. That he does not believe that such economies can be effected or that efficiency can be increased is evident from the fact that he has issued assurances to the effect that, if Reorganization Plan 5 becomes law, he will immediately redelegate to the Commissionr of Patents and others in the Patent Office the duties and functions which they now perform.

It is clear that no change in the Patent Office structure is warranted at this time on the theory that economy and increased efficiency will result.

A JUDICIAL AGENCY

It is doubtful if there is any other executive bureau of the Government—any agency or office—more judicial in its functions than is the United States Patent Office. That its functions are judicial or quasi judicial in nature is known throughout the land, to the hundreds of thousands of inventors who have received patents, to business, both big and little, to all manufacturers, and to all those who follow the legal profession.

Each application for patent is taken up for examination by an examiner who has especially qualified himself for that purpose. He has been selected by the Patent Office as a result of a written examination prepared by the Patent Office and solely on the basis of his knowledge and ability. Even the subordinate examiners are called upon to decide daily whether or not, in view of all the facts at hand and the applicable law, an applicant for patent has made an invention for which a patent should be issued.

The Patent Office as a whole is engaged daily in establishing or refusing to establish property rights of the citizens—a strictly judicial function. Judicial temperament of the highest quality is required, as is vast experience, extensive training, and a knowledge of the patent law obtained by careful study of the decisions rendered from time to time by the Federal courts in patent cases.

The Board of Appeals of the Patent Office, comprising nine examiners, the Assistant Commissioners, and the Commissioner, are selected by the President because of special fitness and are confirmed by the Senate after investigation as to fitness. They are versed in the law and are eminently qualified to give proper weight to the many technical facts inherent in all patent decisions.

The Commissioner of Patents and Assistant Commissioners, and many subordinates, are likewise engaged day by day in the examination of applications for registration of trade-marks and, in the trade-mark field, the Commissioner has most important decisions to make.

Again, these decisions of the Commissior r are of a judicial nature, as has been recognized and established by the courts.

One most interesting decision establishing the fact that the Commissioner of Patents is entirely independent of his superior, insofar as his judicial acts are concerned, is the early case of *Butterworth* v. *Hoe* (112 U. S. 50). In that case—and it was decided in 1884—the Court in a unanimous decision called attention to one of the objectives of the patent law. It said:

> The general object of that system is to execute the intention of that clause of the Constitution, article I, section 8, which confers upon Congress the power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." The legislation based on this provision regards the right of property in the inventor as the medium of the public advantage derived from his invention; so that in every grant of the limited monopoly two interests are involved, that of the public, who are the grantors, and that of the patentee. There are thus two parties to every application for a patent, and more, when, as in case of interfering claims or patents, other private interests compete for preference. The questions of fact arising in this field find their answers in every department of physical science, in every branch of mechanical art; the questions of law, necessary to be applied in the settlement of this class of public and private rights, have founded a special branch of technical jurisprudence. The investigation of every claim presented involves the adjudication of disputed questions of fact, upon scientific or legal principles, and is, therefore, essentially judicial in its character, and requires the intelligent judgment of a trained body of skilled officials, expert in the various branches of science and art, learned in the history of invention, and proceeding by fixed rules to systematic conclusions (pp. 58–59).

Then the Court speaking of the duties and functions of the Commissioner of Patents, said:

> The conclusion cannot be resisted that, to whatever else supervision and direction on the part of the head of the Department may extend, in respect to matters purely administrative and executive they do not extend to a review of the action of the Commissioner of Patents in those cases in which, by law, he is appointed to exercise his discretion judicially. It is not consistent with the idea of judicial action that it should be subject to the direction of a superior, in the sense in which that authority is conferred upon the head of an executive department in reference to his subordinates. Such a subjection takes from it the quality of a judicial act. That it was intended that the Commissioner of Patents, in issuing or withholding patents, in reissues, interferences, and extensions, should exercise quasi-judicial functions, is apparent from the nature of the examinations and decisions he is required to make, and the modes provided by law, according to which, exclusively, they may be reviewed (p. 67).

The Secretary of Commerce may or may not be a lawyer but the Commissioners of Patents have always been chosen from the ranks of patent lawyers and, no doubt, on the theory that a patent lawyer of considerable capacity must be in charge of the Patent Office in order that it may function in a proper manner. If it were not for the fact that the Commissioner must necessarily perform judicial functions, any good administrator could be placed in charge of the Patent Office. But the Commissioner, Assistant Commissioners, members of the Board, and other members of the examining corps function as judges in patent matters.

The Commissioner has, among his judicial functions—

(a) The right to decide appeals as a member of the board of appeals—Thirty-fifth United States Code, page 7;

(b) The right to disbar attorneys—Thirty-fifth United States Code, page 11;

(c) The right to determine who shall receive patents—Thirty-fifth United States Code, page 36;

(d) The right to decide which invention shall be kept secret and which made public—Thirty-fifth United States Code, page 42;

(e) The right to decide whether or not an interference should be declared between two applicants for the same invention—Thirty-fifth United States Code, page 52; and

In trade-mark matters, the Commissioner has—

(a) The right to decide who shall receive certificates—Fifteenth United States Code, page 1051;

(b) The right to decide inter partes controversies between rival applicants for registration—Fifteenth United States Code, page 1068;

(c) The right to decide all controversies on appeal—Fifteenth United States Code, page 1070; and

(d) The right to prescribe rules and regulations governing trade-mark registration procedures—Fifteenth United States Code, page 1051.

The Commissioner also has certain supervisory functions over which the Secretary of Commerce has presently only a veto power and these functions are of importance, although not as important as his judicial functions. Thus he—

(a) Selects his employees, although the Secretary must actually appoint them—Thirty-fifth United States Code, page 2;

(b) Makes the rules under which the Patent Office operates, although here the Secretary has a veto power—Thirty-fifth United States Code, page 6; and

(c) Performs all duties relative to the lawful issue of patents subject to the direction of the Secretary—Thirty-fifth United States Code, page 6.

These various functions as above set forth will all be transferred to the Secretary of Commerce if the reorganization plan becomes law.

The Secretary of Commerce is a political appointee, a very busy man. No Secretary of Commerce has ever been a patent lawyer and none is likely to be versed in patent law through experience. The Secretary will, therefore, inevitably be forced to exercise his right to redelegate powers to the Commissioner and to others in the Patent Office, as the present Secretary has promised to do. But no Secretary is required by the plan to redelegate the functions which he acquires under the plan to any certain individual in the Patent Office.

THE AMERICAN WAY, OUR WAY

Whatever else may be said of "a profit motive" or "the incentive system," the wirters of the Declaration of Independence seemed to feel that ability and use of it were desirable and to be encouraged.

Few, if any, will argue that we as a people are superior either physically or mentally to those in other lands—in fact, our Nation has often been referred to as the "melting pot of the world." We are of no distinct race, creed, or color but, as a Nation, under our system of government, we have the greatest degree of individual liberty, freedom of action, and material prosperity possessed by any people. Hence, it must be our system of government rather than our physical or mental characteristics which has made us what we are.

One of the important factors contributing to the attainment of that enviable position in the world is the fact that the Congress has wisely exercised the power given it by the Constitution "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries," when it created the office of Commissioner of Patents, making it a quasijudicial position, requiring that examiners be men of ability with technical training, insisting that the Office be free from political interference, its decisions reviewable only by the courts.

As to the wisdom of the proposition that, at least for a limited time, the individual who, through the exercise of his talent, created something new and useful should enjoy the benefit of his effort, there was evidently some argument at the time the Constitution was written; otherwise, express protection would not have been given by section 8 of article 1 of that document.

The Patent Question Under Free Trade, published in London in 1864; Copyright and Patents for Inventions—Pleas and Plans for Cheaper Books and Greater Industrial Freedom, published in London, Paris, New York, and Philadelphia in 1883, indicate that the arguments submitted to the writers of the Constitution still continue.

In December of 1941 President Franklin D. Roosevelt, by Executive order, appointed a National Patent Planning Commission, for the purpose of making a study "of our existing patent laws and procedure, together with appropriate action taken by a commission familiar with the problems of science, industry, agriculture, labor, and the consumer."

The National Patent Planning Commission in its report stated:

> This system has accomplished all that the framers of the Constitution intended. It is the only provision of the Government for the promotion of invention and discovery and is the basis upon which our entire industrial civilization rests * * * the basic principles of the present system should be preserved.

In recent years there has been advanced by those who would share the wealth, take from those who have to give to those who have not, establish socialism, the proposition that the laws giving and protecting patents and copyrights should be repealed. It has been argued, and by honest and sincere individuals, that even though one may work long and intensely in an effort to discover something new and useful, when successful, the result should be freely, without compensation, given to all.

The question as to just how far the Congress and the courts should go under the constitutional power "to promote the progress of science and useful arts" has perplexed the Justices of the United States Supreme Court.

It has been affirmatively established by the Court that for a limited period a patentee has a monopoly in the use of his patent. As to just how far the patentee can go by agreement with others in authorizing or limiting by the licenses the use of that patent raises another question, that is, whether the agreement violates the Sherman Act prohibiting monopolies.

In the case of *U. S.* v. *Line Material Company* (333 U. S. 287) three opinions were written. In the prevailing opinion it was said that it was well settled "that the possession of a valid patent or patents does not give the patentee any exemption from the provision of the Sherman Act beyond the limits of the patent monopoly."

Mr. Justice Douglas, with whom Justices Black, Murphy, and Rutledge concurred, agreeing with the majority in holding the agreement in the Line Material case to be a violation of the Sherman Act, desired to overrule a previous decision of the Court in *U. S.* v. *General Electric Company* (272 U. S. 476), in which it was held that certain price-fixing agreements were not a violation of the Sherman Act, said:

> But I would be rid of *United States* v. *General Electric Company*.

Justice Douglas evidently would strictly limit the monopoly given a patentee. The Justice further said:

> Congress, faithful to that standard, has granted patentees only the "exclusive right to make, use, and vend the invention or discovery." * * * And as early as 1853 the Court, speaking through Chief Justice Taney, defined the narrow and limited monopoly granted under the statutes as follows: "The franchise which the patent grants consists altogether in the right to exclude everyone from making, using, or vending the thing patented, without the permission of the patentee."
>
> * * * The effort through the years has been to expand the narrow monopoly of the patent. The Court, however, has generally been faithful to the standard of the Constitution, has recognized that the public interest comes first and reward to invehtors second, and has refused to let the self-interest of patentees come into the ascendency. As we stated in *B. B. Chemical Co.* v. *Ellis* (314 U. S. 495, 498), "The patent monopoly is not enlarged by reason of the fact that it would be more convenient to the patentee to have it so, or because he cannot avail himself of its benefits within the limits of the grant." From *Motion Picture Patents Co.* v. *Universal Film Mfg. Co.* (243 U. S. 502), which overruled *Henry* v. *A. B. Dick Co.* (224 U. S. 1), to *International Salt Co.* v. *United States* (332 U. S. 392), decided only the other day, the Court has quite consistently refused to allow the patentee's "right to exclude" to be expanded into a right to license the patent on such conditions as the patentee might choose. For the power to attach conditions would enable the patentee to enlarge his monopoly by contract and evade the requirements of the general law applicable to all property. The philosophy of those decisions was summed up in *Mercoid Corp.* v. *Mid-Continent Investment Co.* (320 U. S. 661, 666), where we said:
>
> "The necessities or convenience of the patentee do not justify any use of the monopoly of the patent to create another monopoly. The fact that the patentee has the power to refuse a license does not enable him to enlarge the monopoly of the patent by the expedient of attaching conditions to its use. * * * The patent is a privilege. But it is a privilege which is conditioned by a public purpose. It results from invention and is limited to the invention which it defines. When the patentee ties something else to his invention, he acts only by virtue of his right as the owner of property to make contracts concerning it and not otherwise. He then is subject to all the limitations upon that right which the general law imposes upon such contracts."
>
> The Court, however, allowed an exception in this long line of cases. In *United States* v. *General Electric Co.*, supra, decided in 1926, it followed *Bement* v. *National Harrow Co.* (186 U. S. 70), decided in 1902, and sustained a price-fixing provision of a license to make and vend the patented invention. By that decision price-fixing combinations which are outlawed by the Sherman Act (*United States* v. *Socony-Vacuum Oil Co.* (310 U. S. 150)) were held to be lawful when the property involved was a patent. By what authority was this done?
>
> The patent statutes do not sanction price-fixing combinations. They are indeed wholly silent about combinations. So far as relevant here, all they grant, as already noted, is the "exclusive right to make, use, and vend the invention or discovery" (Rev. Stat., sec. 4884, 35 U. S. C. sec. 40). There is no grant of power to combine with others to fix the price of patented products. Since the patent statutes are silent on the subject, it would seem that the validity of price-fixing combinations in this field would be governed by general law. And since the Sherman Act outlaws price-fixing combinations it would seem logical and in keeping with the public policy expressed in that legislation to apply its prohibitions to patents as well as to other property. The Court made an exception in the case of these price-fixing combinations in order to make the patent monopoly a more valuable one to the patentee. It was concerned with giving him as high a reward as possible. It reasoned that if the patentee could not control the price at which his licensees sold the patented article, they might undersell him; that a price-fixing combination would give him protection against that contingency and therefore was a reasonable

device to secure him a pecuniary reward for his invention. Thus the General Electric case inverted clause 8 of article I, section 8 of the Constitution and made the inventor's reward the prime rather than an incidental object of the patent system.

In that manner the Court saddled the economy with a vicious monopoly.

Writing of the attempt of the Government to limit the application of the General Electric case and to make that decision applicable to the case then pending, the dissenting judges wrote:

The long and unfaltering development of our patent law often has been touched upon in our decisions. However, in the face of the direct attack now made upon some of its underlying principles, the infinite importance of our inventions justifies a brief review here of the development and nature of the patent rights attacked.[3]

Mr. Justice Burton, with whom the Chief Justice and Mr. Justice Frankfurt concurred in dissenting, recognizing the attempt to limit the reward given a patentee, called attention to the fact that a patent was—

A reward for the invention or discovery of something new, something before unknown, something added to the sum total of human knowledge, utility, well-being; something which the inventor or discoverer, despising the lure of money or fame, might have withheld from his fellow men. By the monopoly that goes with a patent, then, the Government recompenses and, for a limited time, protects the inventor or discoverer who gives to the world the use and benefit of his invention or discovery. This is a kind and a degree of mutuality that negatives monopoly in the old or the current concept. Monopoly in the latter sense of the term gave to an individual or a group complete dominion of something already existent. A patent awards monopoly to the producer of something original, something superadded to the common store. So it is that two things bearing the same name need not be of the same nature.

It has been contended that there sometimes occurs a clash between the antitrust laws and the patent statutes. I might suggest that since the first antitrust legislation in 1890, the patent laws and the antitrust laws have coexisted without any irreconcilable conflicts between them. They have each of them at least one common objective; namely, the retention by the public of a right once acquired by it. As a matter of fact, patents accomplished more than the retention of the acquired rights. Their influence is creative; they operate to multiply and expand acquisitions by the public.[4]

The Justice then added:

The exceptional recent activity in seeking, by statutory amendment, a change in the patent laws as interpreted in the Bement and General Electric cases indicates a widespread understanding that, if such interpretation is to be changed, the remedy calls for congressional action. The resistance to such a change which has been shown by Congress is impressive (333 U. S. 362).[5]

[3] 333 U. S. 331, 332.

[4] 333 U. S. 338, 339.

[5] Many bills relating to these issued have been introduced in Congress and referred to appropriate committees. Not one has been reported back to either House of Congress.

As early as 1912, H. R. 22345, 62d Cong., 2d sess., proposed that a patentee be not permitted to fix the price of articles to be sold by others under his patent.

During the hearings held by the Temporary National Economic Committee, the Department of Justice recommended many fundamental as well as minor changes in the patent law. These included the prohibition of price-limiting patent licenses comparable to those here at issue (Preliminary Report, Temporary National Economic Committee, S. Doc. No. 95, 76th Cong., 1st sess., pp. 16–17 (1939)).

The Department of Commerce took an opposite position. It submitted recommendations for retaining but improving the patent system substantially in accordance with its traditional underlying policies. The Final Report of the Temporary National Economic Committee incorporated the substance of the proposals of the Department of Justice. It included a recommendation that patentees be not permitted to limit the price at which a licensee might sell a product made under the license (Final Report, Temporary National Economic Committee, S. Doc. No. 35, 77th Cong., 1st sess., pp. 36–37 (1941)).

In 1941, the President appointed the National Patent Planning Commission to submit recommendations on questions dealt with in the report. * * * In 1943, among the examples of the proposed reforms which it concluded "would not be a beneficial innovation in our patent system," it listed "outlawing certain limitations in patent licenses, * * *." This evidently referred to the above-mentioned proposals of the Temporary National Economic Committee to outlaw price restrictions and other limitations in patent licenses (Report of the National Patent Planning Commission, H. Doc. No. 239, 78th Cong., 1st sess., p. 9 (1943)).

Bills to the same general effect as the proposals of the Temporary National Economic Committee have been introduced and referred to committees of Congress but have advanced no further.

Under the authority given it by the Constitution, the Congress has consistently sought to encourage inventions by giving the patentee a limited monopoly and, through the Sherman Act, preventing the misuse of that monopoly. The courts through the years have upheld Congress in that attempt. It would be the most unwise, by the indirect method proposed in this plan, to make it possible for a political appointee to destroy the established legislative and judicial policy with reference to patents.

To date the Patent Office has been and now is a quasi-judicial office. It has served the inventor and the public with ability and fairness.

Plan No. 5 would discard the method of dealing with patents as it has been established by the Congress and the courts, destroy the judicial character of the Patent Office, make it a part of, and subject to, a political appointee.

The Secretary of Commerce is a busy man. Obviously he has no time to himself perform the functions of a Commissioner of Patents or of any member of that organization, nor does the plan contemplate that he shall perform any of those functions. If the plan becomes law, he is authorized to, and necessarily he must, redelegate those functions to individuals of his own choosing.

While the statute creating the Department of Commerce outlines and circumscribes some of the duties of the Secretary of Commerce, he is nevertheless a part of, and subject to and guided by a political machine. Under the two-party system of government, that is to be expected—it is inevitable. A political party operates from the top down and the Secretary of Commerce can but carry out, implement, the political philosophy of his party.

A Henry Wallace was once Vice President. But for a turn in fortune's wheel he might have been President. He was Secretary of Commerce. Most people are familiar with some of Henry Wallace's political theories. Had Plan No. 5 been in effect when he was Secretary of Commerce, would he, who advocated the killing of little pigs, the plowing under of crops, the giving of a pint of milk to everyone in the wide, wide world, have been an advocate of legislation to repeal the laws protecting patents and trademarks?

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. HOFFMAN of Michigan. I yield to the gentleman from California.

Mr. HOLIFIELD. The gentleman does not want the House to believe that this changes any of the patent laws, or that the Commissioner of Patents by this plan is deprived of any of his duties or responsibilities in complying with all the laws on patents? In fact, the present law puts him under the Secretary of Commerce in most instances outside of those instances which have been excluded for the purpose of protecting the rights of the industry in obtaining patents. Any of the decisions which the Commissioner of Patents or the Secretary of Commerce makes is appealable to any court of law. Therefore ample protection is given to applicants for patents.

Mr. HOFFMAN of Michigan. The cases I have cited show that the Supreme Court is fully aware of that situation and recognizes the fact that the administration of the law could change our whole economic philosophy. All you need to do is read the Supreme Court decisions.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. HOFFMAN of Michigan. I yield to the gentleman from Michigan.

Mr. DONDERO. Following up the statement made by the gentleman from California, what is the justification for this plan?

Mr. HOLIFIELD. The justification is to line up the clear line of authority of the department head so that he cannot only be responsible but have supervision over his subordinates.

Mr. DONDERO. But this is an independent agency.

Mr. HOFFMAN of Michigan. Let me answer that question for the gentleman. The Patent Office has been held by the United States Supreme Court in Butterworth against Hoe to be a quasi-legislative, quasi-judicial office. The Supreme Court of the United States said so.

Mr. Hoover in his original report said that there was no intention to deal with quasi-legislative, quasi-judicial agencies. Mr. Hoover so reported in his letter to the Speaker of the House in connection with the 1949 reorganization bill, yet here, in spite of the fact that this has been by the Supreme Court declared to be one of those agencies with which reorganization was not supposed to deal, along comes a plan.

I assume the purpose is to get it under the control of the Secretary of Commerce. There is no efficiency, no econ-

omy, I would say to the gentleman, involved in this case. There is not a word of testimony in the record that indicates there will be any efficiency or any economy in it.

I will tell you what is the matter with all these plans. Let me quote you from real authority from the other body, the upper body, the body that has the learning and the dignity and all the things that are necessary to make statesmen. It comes from a majority Member over there:

> The congressional-declared purpose of the whole reorganization authorization is to bring more efficiency and greater economy into the Federal Government. It is my judgment, after study of many of the plans which are being submitted to us, that many of them tend more in the direction of centralizing power in the executive branch of the Government than they do in the direction of reorganizing the executive branch for the purpose of obtaining greater efficiency or economy.

That is from the CONGRESSIONAL RECORD of May 11. You will find it on page 6947.

The whole procedure as I have said before, is to pin the Hoover label on a quack remedy, to get Republicans to go along with it, and they will wake up to find out you have centralized government. You can yell all you want to about socializing the Government, you are getting it in these plans the President is sending down.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. HOFFMAN of Michigan. I yield to the gentleman from Pennsylvania.

Mr. RICH. Is it not a fact that our former colleague from Texas, Fritz Lanham, who was chairman of the Patents Committee for a good many years, came before our committee, and he tore this apart in every way possible, saying it was poor legislation. Yet the Democratic House today wants to put through what a lot of good, sound Democrats said was the wrong kind of legislation. Will the chairman explain how these New Deal and Fair Deal Democrats are handling affairs now when so many of the good Jeffersonian Democrats got sick and tired and got out of Congress? Can he explain that?

Mr. DAWSON. That is not so very hard to explain. Mr. Lanham was before our committee.

Mr. RICH. And he opposed this one in every way possible, did he not?

Mr. DAWSON. He was once a Member of Congress. Do you know his present occupation?

Mr. RICH. I know he is a fine fellow. I do not know what he is doing now. I suppose he is trying to earn an honest livelihood instead of putting through a lot of legislation which the present administration wants.

Mr. DAWSON. Then I am of the opinion if you knew what he is doing now, that would explain to you his interest in appearing before the committee at that time.

Mr. RICH. Are you ashamed to tell what he is doing?

Mr. HOFFMAN of Michigan. Did the gentleman from Pennsylvania get an answer to his question?

Mr. RICH. No, I did not get an answer. They never answer anything on that side.

Mr. HOFFMAN of Michigan. Mr. Chairman, the gentleman from Illinois, the chairman of our committee, asked did we know the present occupation of Mr. Lanham. In what way is that question relevant here? I think most of the Members of the House know Mr. Lanham, a former Member of the House.

Mr. DAWSON. I think he testified because if a person was paid to protect certain interests and asked to be heard as a witness we would hear him and we would also ask what his occupation was and what his interest was in the subject matter. He so testified before the committee, which would show the interest he had in the matter and why he came there. Once more, a small group of people, the patent attorneys, felt that any change might interfere with their status quo and that would place them against the reorganization plan to reorganize the Government.

Former President Hoover told the sales executive club of New York on Tuesday, May 14:

> Violent campaigns are being waged against many Presidential plans. Practically every single item in the program has invariably met with opposition of some vested official or it has disturbed some vested habit or has offended some organized minority.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HOFFMAN] has expired.

Mr. HOFFMAN of Michigan. Mr. Chairman, the gentleman from Illinois has used pretty near 5 minutes of my time. Will the gentleman yield me 5 minutes of his time?

Mr. DAWSON. I yield to the distinguished ranking minority member of the committee 5 minutes of my time.

Mr. Chairman, will the gentleman permit me to read the balance of this statement?

Former President Hoover added:

> It has aroused paid propagandists of these vested officials, vested habits, and organized propaganda groups, all of whom are in favor of every item of reorganization except that which affects the bureau or activity in which they are specifically or specially interested.

Mr. HOFFMAN of Michigan. In reply to that, I would say that is the old, old argument and we always have it whenever we try to cut something somewhere someone always objects.

Mr. Chairman, what I really wanted to say, however, is that no Member of the House sitting today thinks for one moment that the opinion or testimony of Fritz Lanham would be influenced by the fact that he is employed by any group. If that argument were to apply here, then what about the Department of Labor which by law is not only authorized, but directed to look after the interests of the wage earner?

Mr. DAWSON. I will explain the difference to the gentleman if he wishes.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. HOFFMAN of Michigan. I yield.

Mr. DONDERO. Mr. Chairman, I was a Member of the House when Mr. Lanham was a Member. No finer or more honorable man ever represented his constituency in this body than Fritz Lanham. Whatever he said to the committee was said on the basis of sound judgment rather than any personal interest. I am here to defend the name of Fritz Lanham against any imputation that he would do wrong to further any special interest if he did not believe in it.

Mr. DAWSON. And no one would rally to his defense more quickly than I would, and I do not think he meant to do a wrong. I merely stated that his employment brings him within the group of people that former President Hoover was talking about when he said they are all for reorganization until it affects that special little group which they are specifically interested in. Then they are against reorganization. He did not appear before any other plan, but only appeared against this one.

Mr. HOFFMAN of Michigan. Let us get back to the resolution.

Economy and efficiency are desirable, but far more desirable and essential to people who would be free is the integrity and independence of those who interpret and administer our laws. As suggested by Justice Brandeis, efficiency and economy mean little to the individual who has lost his freedom of action.

Plan No. 5 should be rejected, for it gives no promise of either efficiency or economy, it would destroy the integrity of an agency which has functioned without serious criticism, which has promoted the progress of science and useful arts, encouraged the able and industrious, while, at the same time, it has protected the public.

Plan No. 5 should be rejected by an affirmative vote for House Resolution 546.

Mr. DAWSON. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. ROOSEVELT].

Mr. ROOSEVELT. Mr. Chairman, I want to take just a minute to sincerely, though briefly, as a member of this committee, tell you of the great esteem and admiration I feel for our chairman. During both sessions of the Eighty-first Congress, he has been charged with the responsibility of guiding the reorganization plans through the hearings of our committee and then on the floor for the consideration of the Congress. He, at all times, has shown—and I am sure I speak for all the members of my committee—great tact, great understanding, and a great human heart. He has demonstrated great powers of intellect, and the ability to rise above the petty side of any issue to the loftier principles and policies involved.

I am personally grateful for the opportunity I have had in my short time in the Congress to be able to serve under his leadership. I hope I will have the honor and privilege of serving with him in this capacity and in others for many years to come.

The CHAIRMAN. The time of the gentleman from New York [Mr. ROOSEVELT] has expired.

Mr. DAWSON. I thank the gentleman very much and I appreciate his words and I am embarrassed.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. RICH].

Mr. RICH. Mr. Chairman, I ask unanimous consent that I may insert this article by a good old Democrat on the whistle-stop campaign, at this point in the RECORD.

The CHAIRMAN. The gentleman is out of order. That request will have to be made in the House.

Mr. RICH. That is too bad.

The CHAIRMAN. The gentleman can get that permission in the House.

Mr. RICH. You think I can?

The CHAIRMAN. Undoubtedly.

Mr. DAWSON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. ROONEY].

Mr. ROONEY. Mr. Chairman, first permit me to say that I wholeheartedly join in the commendatory remarks just made by the gentleman from New York [Mr. ROOSEVELT], concerning my friend and colleague the distinguished gentleman from Illinois [Mr. DAWSON].

I am going to show the gentleman from Pennsylvania [Mr. RICH] how to get the item he holds in his hand into the RECORD.

I hold in my hand an editorial published in today's Washington News entitled "Republicans, Be Smart"——

Mr. HOFFMAN of Michigan. Mr. Chairman, I make the point of order that the gentleman is not speaking on the resolution.

Mr. ROONEY. I am addressing my remarks to the pending resolution.

Mr. HOFFMAN of Michigan. A point of order, Mr. Chairman. The gentleman is not speaking to the resolution.

The CHAIRMAN. The gentleman will proceed in order.

Mr. ROONEY. Mr. Chairman, I submit that I am proceeding in order and I assure you and the gentleman from Michigan that I shall show the pertinency of this in a very few seconds.

This editorial, as I have said, is entitled "Republicans, Be Smart." It reads in part as follows:

> If Republicans in Congress want to do something really smart, they should rally to the defense of the Hoover Commission's Government reorganization program.
>
> Bureaucrats who don't want to be disturbed by reorganization, Congressmen who want to protect their pet agencies, special-interest groups which would profit by keeping things as they are, all are attacking in force.

The gentleman from Michigan should carefully listen to this. It is meant for those on his side of the aisle.

Mr. HOFFMAN of Michigan. Mr. Chairman, I renew the point of order.

The CHAIRMAN. The gentleman from New York is proceding in order.

Mr. HOFFMAN of Michigan. But he is not speaking to this present resolution.

The CHAIRMAN. The recommendations of the Hoover report are involved in this resolution, and the Chair rules that the gentleman from New York is proceeding in order.

Mr. ROONEY. I wish the gentleman from Michigan would carefully listen to the balance of this. He might gain something. I repeat:

> Bureaucrats who don't want to be disturbed by reorganization, Congressmen who want to protect their pet agencies, special-interest groups which would profit by keeping things as they are, all are attacking in force.
>
> In most cases, these (reorganization) plans accord closely with recommendations of the Hoover Commission.
>
> They would promote the efficiency and economy in Government which the Republican Party professes to consider so vitally important.
>
> Yet many Republicans seem inclined to vote against a large number of these plans on the misguided theory that it's good politics to oppose practically anything Mr. Truman favors.
>
> Such Republicans, actually, contemplate undoing major parts of the great job done by a bipartisan commission headed by their party's own elder statesman, Herbert Hoover.
>
> They should avoid such a foolish mistake. They should earn for their party credit for saving and making effective the best hope this country may ever have for sound and sensible reorganization of the Government.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to my distinguished friend.

Mr. RICH. It is not a fact that Republicans are opposing things that Mr. Hoover has recommended. What we oppose is the New Deal philosophy of trying to center everything in Washington.

Mr. ROONEY. Of course that last sentence is so much hogwash insofar as this debate is concerned.

Mr. RICH. Now you yielded to me.

Mr. ROONEY. Yes, for an intelligent question. But I did not yield to you for a speech. I understood the gentleman was going to ask a question. I respectfully suggest that the gentleman carefully read the Scripps-Howard editorial. He might learn something.

The CHAIRMAN. The time of the gentleman from New York [Mr. ROONEY] has expired.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I will say to the gentleman from New York [Mr. ROONEY] that we have heard several times today, and of course it is a fact, that a law is no better than those who administer it. It matters little or not at all what laws the Congress may write as long as we have an administration whose standard of honesty is measured by the statement of the President that he was on a nonpolitical trip. There is no use writing any law unless it is honestly interpreted and administered. I doubt if there is a man or woman in the country who can read or write who does not know that the President's recent journey was a campaign trip, paid for by the taxpayers.

Mr. ROONEY. Mr. Chairman, will the gentleman yield for a question?

Mr. HOFFMAN of Michigan. He will give you time. I am through.

Mr. DAWSON. Mr. Chairman, I yield 3 minutes to the gentleman from Californit [Mr. HOLIFIELD].

Mr. HOLIFIELD. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HOLIFIELD. Mr. Chairman, at this late date, when most of the reports of the Commission on Organization have been published for well over a year, it would at first appear to be unnecessary to elaborate upon the principles upon which those reports were based. These principles were fundamentally sound. They have been given wide publicity. They have received—as has the work of the Commission on organization generally—a wide and a well justified acclaim. Everyone professes to be in favor of the idea of reorganization and of the Hoover Commission recommendations for carrying it out—in general. There the agreement ends.

As soon as the attempt is made to apply these basic and generally accepted principles to specific situations, the "yes, but" boys begin to make themselves heard. They are in favor of reorganization; but they want reorganization if, and only if, it can be accomplished without making any change in some department, agency, or service in which they happen to be particularly interested. They want the other fellow's department or agency reorganized, in the interests of economy and efficiency, as long as their own remains untouched. The most popular means of achieving this objective is to establish a claim for exemption.

Mr. Chairman, and Members of the House, I want to emphasize the fact, as forcefully as I know how, that no worthwhile reorganization of the executive branch of Government will ever be achieved on the basis of such a philosophy. This task of Executive reorganization is one of the largest and most important now confronting the Congress and the American people today. It can be accomplished only by resolute adherence to sound principles of organization and management. The Commission on Organization has indicated very clearly what those principles are. The question before us is equally clear: Are we going to apply these principles systematically and consistently, or are we going to reject this plan or that because it does not strike our fancy, thereby making a mockery of the whole reorganization movement?

The group of reorganization plans now before the Congress represents a part of an over-all plan to bring about an Executive organization in the Federal Government in which: First, authority and responsibility will be concentrated in the head of the department or agency for all or substantially all functions performed by that particular unit of Government; second, there will be straight-line responsibility, and unbroken line of authority extending from the head of the agency on down through bureau and division chiefs, section and unit heads, to the individual employee.

This is the purpose, and it is the only purpose, of Reorganization Plan No. 5. This plan was drawn up and submitted in four sections, which I would like to discuss—briefly—in the order in which they appear in the text of the plan.

Section 1 deals with the transfer of functions to the Secretary of Commerce; it reads:

Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Commerce all functions of all other officers of the Department of Commerce and all functions of all agencies and employees of such Department.

The exceptions listed in subsection (b), which will be discussed a little later, are four in number, as follows:

First. Functions vested by the Administrative Procedure Act of 1946 in hearing examiners employed by the Department of Commerce.

Second. Functions of the Civil Aeronautics Board.

Third. Functions of the Inland Waterways Corporation.

Fourth. Functions of the Advisory Board of the Inland Waterways Corporation.

This transfer of functions from the heads of subordinate units to the head of the Department is important. The task force of the Commission on Organization on Department Management called attention to the anomalous situation then generally existing throughout the Federal service—a situation in which the head of the Department was held responsible by the President, by the Congress, and by the American people, for the administration of various units and services over which he had either inadequate legal authority, or, in many cases, no authority at all. Secretary Sawyer, in his testimony on Reorganization Plan No. 5, at the hearing of the Senate Expenditures Committee on April 27, 1950—page 25—commented very effectively on this point when he said:

During my tenure as Secretary of Commerce, I have had many occasions to consider the nature of my legal responsibilities in connection with the various activities conducted by the Department. It has struck me rather forcefully that I am held responsible to Congress, to the President, and to the people for faithful execution of several functions for which the direct statutory authority is scattered among different bureau officials of the Department.

The obvious solution to this unsatisfactory situation is to make such changes in the law as may be necessary to transfer this scattered authority from the Bureau officials to the Secretary. This is exactly what the Commission on Organization recommended, and exactly what this first section of Reorganization Plan No. 5 seeks to accomplish. In its Report on General Management, the Commission said—page 7:

Any systematic effort to improve the organization and administration of the Government, therefore, must: * * * (2) Establish a clear line of control from the President to these Department and agency heads and from them to their subordinates with correlative responsibility from these officials to the President, cutting through the barriers which have in many cases made bureaus and agencies partially independent of the Chief Executive.

In its Report on the Department of Commerce, the Commission recommended an internal organization of the Department, divided into four main services. Under the heading of Industrial and Commercial Service is included a number of agencies such as the Patent Office, the Bureau of Standards, the Bureau of the Census, the National Investors Council, etc. The Commission states in connection with its proposed internal organization:

We do not, however, recommend a hard and fast rule. The Secretary should determine the organization and be free to amend it (p. 6).

It seems clear from this reference that the Commission intended the Patent Office to be one of the units of administration under the full and active supervision and direction of the Secretary of Commerce. Inasmuch as the Commission was very emphatic that the Secretary of Commerce should have authority to organize and control his Department and that separate authority to subordinates should be eliminated, the fact that the Commission made no specific recommendation for the Patent Office indicates much more strongly that the Commission did not intend to except that unit.

The Secretary of Commerce now has by law considerable control over the Commissioner of Patents and the Patent Office. The United States Code—1946 edition—deals with patents in title 35. Thus section 1 of that title recited that—

There shall be in the Department of Commerce an office known as the Patent Office.

Section 2 provides that there shall be in the Patent Office a Commissioner of Patents, one first assistant commissioner, two assistant commissioners, and nine examiners in chief, who shall be appointed by the President, by and with the advice and consent of the Senate. Section 2 goes on to say:

The First Assistant Commissioner and the Assistant Commissioners shall perform such duties pertaining to the Office of Commissioner as may be assigned to them respectively, from time to time by the Commissioner of Patents. All other officers, clerks, and employees authorized by law for the Office shall be appointed by the Secretary of Commerce upon the nomination of the Commissioner of Patents, in accordance with existing law.

Section 6 of this title, prescribing duties of the Commissioner, recites as follows:

The Commissioner of Patents, under the direction of the Secretary of Commerce, shall superintend or perform all duties respecting the granting and issuing of patents directed by law; and he shall have charge of all books, records, papers, models, machines, and other things belonging to the Patent Office. He may, subject to the approval of the Secretary of Commerce, from time to time, establish regulations, not inconsistent with law, for the conduct of proceedings of the Patent Office.

Section 11 authorizes the Commissioner of Patents, subject to the approval of the Secretary of Commerce, to prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing applicants or other parties before his Office.

Further indication of the direction that the Secretary of Commerce now exercises over the Patent Office is given in Executive Order No. 9424, February 18, 1944, 9 F. R. 1959. This order directed the Secretary of Commerce to cause to be established in the Patent Office a separate register for the recording of all rights and interests of the Government in relation to patents and also authorized the Commissioner of Patents, with the approval of the Secretary of Commerce, to prescribe such rules and regulations as he might deem necessary to effectuate his purposes.

I cannot leave this question of the authority of the Secretary of Commerce over the Commissioner of Patents without making some observations on the general subject of exemptions. It is the desire of the administration, and of all of us who are sincerely interested in reorganization, that these basic principles of organization be applied throughout the Federal service on as nearly a uniform basis as possible. At the same time, it is realized that some exceptions must of necessity be made. The Bureau of the Budget, which, through its Division of Administrative Management, has the responsibility for the actual drafting of these plans, has had to grapple with this problem. In making decisions with regard to exemptions, it has acted on the basis of two very sound principles: First, that the number of exemptions should be held to an irreducible minimum; second, that such exemptions as are provided for should not only be justified, but that they be applied consistently wherever a given situation occurs.

The exemptions provided for in Reorganization Plan No. 5 have already been enumerated. The functions of the hearing examiners are exempted from transfer in this and other plans in the Nos. 1 to 6 group, in recognition of the need for independence for any primarily judicial work handled by them. They were not exempted in plans Nos. 7 to 13 because the limited transfer provided in those plans did not affect the status of the examiners. The exemption of the Civil Aeronautics Board in this plan was in accord with the general recognition of the principle that an independent board may be a necessary and effective instrument for fulfilling regulatory responsibilities. The Inland Waterways Corporation—and its Advisory Board—like other corporations connected with other departments, was exempted in recognition of its corporate form of organization, and in the belief that the existing arrangements afford the heads of departments adequate authority with respect to the corporations located within their respective departments.

During his appearance at the Senate committee hearing on Reorganization Plan No. 5, Mr. Frederick J. Lawton, Director of the Bureau of the Budget, testified that some consideration was given to the possibility of exempting the Patent Office from the effect of the plan, but that an adverse decision was reached on the ground that exemption could not be adequately justified. One such exemption invites others, and to the extent that such pressures are acceded to, you have—in the words of Mr. Lawton—"a series of semiindependent or semiautonomous groups within a department" which the Secretary would find it either difficult or impossible to modify at some future time, should the need arise.

We followed the belief of the Hoover Commission, which we shared—

Continued Mr. Lawton, page 14—

that straight-line authority with responsibility and accountability in the department head for the functioning of his Department was the proper form of administrative organization for the executive branch.

There were, furthermore, certain other aspects of the situation of the Patent Office which seemed to justify this position and to make inadvisable an exemption regarding it. There is already in existence an appeals procedure, and a United States Court of Customs and Patents Appeals. These procedures and this court should provide assurance to the most questioning persons that the rights of petitioners will be no less secure in the future, if Reorganization Plan No. 5 becomes effective, than they have been in the past under the existing organizational arrangements.

Section 2 of the plan deals with the performance of the functions of the Secretary, granting him full authority to delegate any of his functions, including any of those transferred to him under the provisions of this plan. This provision is in full accord with sound principles of management. No high ranking executive officer, whether he be in public or in private employment, can possibly perform personally any considerable portion of the duties assigned to him. And that is not his job. His is the responsibility for organizing and directing the use of manpower, money, and materials in such a manner as to get the job done in the most economical and efficient basis possible.

I have been particularly impressed with the fact that in one instance after another, as these reorganization plans have been under consideration, and hearings have been held on them, the plea has been made that the concentration of authority in the hands of the Secretary might be all right as long as the group testifying had confidence in the Secretary, but that, at some future time, we might get a Secretary who was incompetent, dishonest, or personally unacceptable. The argument runs that, therefore, we should continue with an admittedly poor and inadequate administrative organization, for fear that some time in the future, the President of the United States might make a poor or unsatisfactory appointment to a particular Cabinet post.

Mr. Chairman, I must say that I have very little patience with this approach to problems of public administration on the basis of apprehension and fear. I refuse to accept and to act upon the theory that every official appointed by the President of the United States, the responsible head of this great Government, may turn out to be a scoundrel. Public administration in a democratic society simply cannot operate on any such basis. In our democracy, government functions under law. Our system presupposes responsibility under law in the selection of officials and in their administration of their duties, and its assumes—I believe it must assume—public trust and confidence in these officials, once they have been selected and duly appointed.

There are already in the Constitution and in the statutes adequate remedies available in that almost insignificant number of cases in which high public officials prove faithless to the trust and responsibility that has been imposed in them, or in which they prove to be incapable of discharging their duties. They may be removed by the Chief Executive, by whom they were appointed, and to whom they are administratively responsible. Their conduct of their office may be made the subject of investigation by a committee of the Congress, or in other instances, where the rights of private individuals or organizations are involved, resort may be had to the courts. I see no justification for hampering our efforts at executive reorganization because of the remote possibility of abuses for which suitable remedies are already clearly provided by law.

This type of arguments seems to me to be particularly lacking in merit, as related to Reorganization Plan No. 5. In this connection, it is claimed that the Patent Office should have been exempted because, while the present Secretary of Commerce is all right, some future Secretary might not be. Fear is expressed that the Commissioner of Patents might be subjected to pressure by a politically selected Secretary of Commerce, but may I remind you that there are no qualifications of any sort established by law for either of these positions. Both officials are selected by, are responsible to, and are removable by the President of the United States. What reasonable basis there may be for having a greater confidence in the one than in the other, or for distrusting the one more than the other, I am completely at a loss to understand.

According to information furnished to the Committee on Expenditures and included in its Report on Reorganization Plan No. 5 (H. Rept. No. 1976), there are eight bureaus and offices, including the Patent Office, whose powers and duties, now vested by law in the Bureau Chief, would be transferred to the Secretary of Commerce. These are:

Weather Bureau.
Civil Aeronautics Adminstration.
Bureau of the Census.
National Bureau of Standards.
Bureau of Foreign and Domestic Commerce.
Coast and Geodetic Survey.
Patent Office.
Bureau of Public Roads.

Why the Secretary of Commerce would be any more likely to exert political pressure on the Patent Office, or why the effect of such pressure would be more disastrous in that office than in any one of these other agencies, I am likewise at a loss to understand. An example of another pressure group defending their own pet bureau—unwilling, and so forth.

Secretary of Commerce Sawyer has publicly stated that, if this plan No. 5 goes into effect, he will immediately delegate his duties with regard to the Patent Office to the Commissioner of Patents so that there will, in fact, be no disturbance of existing operating arrangements. In view of this assurance by the Secretary, and of the fact that by force of circumstances, any succeeding Secretary would in all probability do the same, I see no reason for alarm regarding the effect of the operation of this plan.

Sections 3 and 4 of Reorganization Plan No. 5 are uniform with similar provisions in other plans, and seem to have caused no controversy. Section 3 provides, in accordance with the recommendations of the Commission on Organization, for the establishment of a new Administrative Assistant Secretary of Commerce who shall perform such duties as the Secretary of Commerce shall prescribe. Section 4 provides for such incidental transfers as may be deemed necessary in order to carry out the provisions of this reorganization plan.

I have tried to make clear the purpose and effect of Reorganization Plan No. 5, and to consider such objections to it as have come to my attention. These objections do not seem to me to be valid, or in harmony with the purposes and objectives of the movement for executive reorganization. We, as Members of the Eighty-first Congress, passed last year the Reorganization Act of 1949, authorizing the President to prepare and submit to us, specific plans for the improvement of the organization of the executive departments and agencies. We made this authorization because, on the basis of past experience, this appeared to be a likely means of securing effective action in the field of reorganization.

Acting under the provisions of that law, in complete good faith, the President has now sent up more than 30 reorganization plans since that act was passed. He is doing his part, and I trust we will continue to do ours. We will not be doing our part if we accede to every plea of every pressure group that dislikes some particular provision in a reorganization plan, nor will we get an effective reorganization by that method. As President Robert L. Johnson, of the citizens' committee said in an address a few days ago:

Reorganization can be nibbled to death by its friends as easily as it can be bludgeoned to death by its enemies.

Mr. DAWSON. Mr. Chairman, I ask unanimous consent that all Members have permission to extend their remarks on House Resolution 522 and House Resolution 546, Reorganization Plans Nos. 6 and 5, respectively.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. BOLLING. Mr. Chairman, I am in favor of the President's Reorganization Plan No. 5, and will vote against House Resolution 546, which, if passed, would defeat this plan and further delay the reorganization of the executive establishment.

Mr. WAGNER. Mr. Chairman, in their report on general management of the executive branch, the Committee on Organization of the Executive Branch, after a thorough and objective review of operations of the executive branch, made the following observations which,

in my opinion, are directly pertinent to plan No. 5:

The President and, under him, his chief lieutenants, the department heads, must be held responsible and accountable to the people and the Congress for the conduct of the executive branch.

Responsibility and accountability are impossible without authority—the power to direct. The exercise of authority is impossible without a clear line of command from the top to the bottom, and a return line of responsibility and accountability from the bottom to the top.

Any systematic effort to improve the organization and administration of the Government, therefore, must: * * * (2) Establish a clear line of control from the President to these department and agency heads and from them to their subordinates with correlative responsibility from these officials to the President, cutting through the barriers which have in many cases made bureaus and agencies partially independent of the Chief Executive.

(c) The line of authority from departmental heads through subordinates is often abridged by independent authorities granted to bureau or division heads, sometimes through congressional act or stipulations in appropriations. Department heads, in many instances, do not have authority commensurate with their responsibilities. Such bureau autonomy undermines the authority of both the President and the department head. There is, therefore, a lack of departmental integration in performing the department's major mission.

And in recommendation No. 18:

Each department head should receive from the Congress administrative authority to organize his department and to place him in control of its administration. * * * Each department head should determine the organization and be free to amend it.

In the report on the Department of Commerce, the Commission restated its position as follows:

We have urged in our first report that the foundation of good departmental administration is that the Secretary shall have authority from the Congress to organize and control his organization and that separate authority to subordinates be eliminated.

The Honorable Charles Sawyer, Secretary of Commerce, in a statement before the Committee on Expenditures in the Executive Departments of the House of Representatives, stated:

There is little that I can add to the words of this distinguished Commission except to say that my experience, both in business and as Secretary of Commerce, leads me to give my full support to the Commission's findings and recommendations on this subject. Reorganization Plan No. 5 is entirely consistent with these recommendations. Based upon my experience, it is difficult for me to believe that any business concern would give to subordinate officials authorities independent of the responsible head of the firm. Likewise, I do not believe that any business concern would be inclined to freeze organizational arrangements so as to make it impossible to adjust to changing conditions and new circumstances. There is no doubt in my mind that plan No. 5 is sound in theory and in practice. Only the most compelling evidence should be permitted to dilute or obstruct this plan. In my judgment, such evidence has not yet been presented.

The CHAIRMAN. Are there further requests for time? [After a pause.] The Chair hears none. The Clerk will read the resolution.

The Clerk read as follows:

Resolved, That the House of Representatives does not favor the Reorganization Plan No. 5 transmitted to Congress by the President on May 13, 1950.

Mr. DAWSON. Mr. Chairman, I move that the Commttiee do now rise and report the resolution (H. Res. 546) disapproving Reorganization Plan No. 5, back to the House with the recommendation that it be not agreed to.

The motion was agreed to.

Accordingly the Committee rose; and Mr. PRIEST having assumed the chair as Speaker pro tempore, Mr. GARY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (H. Res. 546) disapproving Reorganization Plan No. 5, had directed him to report the same back to the House with the recommendation that it be not agreed to.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, the resolution not having received the affirmative vote of a majority of the authorized membership of the House, the resolution is not agreed to.

So the resolution was rejected.

FEDERAL AID HIGHWAY ACT OF 1950

Mr. COX. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 565, and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 7941) to amend and supplement the Federal-Aid Road Act, approved July 11, 1916 (39 Stat. 355), as amended and supplemented, to authorize appropriations for continuing the construction of highways, and for other purposes, and all points of order against said bill are hereby waived. That after general debate which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. COX. Mr. Speaker, I yield 30 minutes to the gentleman from New York [Mr. WADSWORTH] and at this time I yield myself 1 minute.

Mr. Speaker, this resolution provides for the consideration of the bill H. R. 7941, which is a highway bill. This is an important bill, but it is one in which there is unanimity of opinion on both sides of the aisle. It simply provides for an authorization of appropriation to carry on a road-building program which has been in effect for some years.

Mr. WADSWORTH. Mr. Speaker, I yield myself such time as I may desire.

Mr. Speaker, the gentleman from Georgia has already described the rule which is now before the House and the effect of its adoption in bringing up for consideration the bill H. R. 7941. It is not my intention to take up the time of the House at this moment except to say that, speaking personally, I have grave doubts as to the wisdom of committing the United States Government to such large expenditures in the future.

Mr. COX. Mr. Speaker, this bill is an important bill and does provide for an appropriation of an enormous sum of money, but it is an amount which probably is necessary for the carrying on of a program that has been outlined and it is for something we have been carrying on a long time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

(Mr. WHITTINGTON asked and was given permission to revise and extend the remarks he expects to make in Committee of the Whole on the bill H. R. 7941 and to include certain tables and other matter.)

Mr. WHITTINGTON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 7491) to amend and supplement the Federal Aid Road Act, approved July 11, 1916 (39 Stat. 355), as amended and supplemented, to authorize appropriations for continuing the construction of highways, and for other purposes.

Mr. HOFFMAN of Michigan. Mr. Speaker, if the gentleman will yield, are you going to vote on this bill tonight?

Mr. WHITTINGTON. There are 2 hours of general debate. As far as I am concerned, I am going to go along until the gentleman and the other leaders ask me to stop work for today. Personally I trust we may finish general debate, read the first section, and that the Committee will then rise.

Mr. HOFFMAN of Michigan. Some of the Members of the House want an opportunity to vote on the bill. We would like to know if it is to be taken up tomorrow or disposed of tonight.

Mr. WHITTINGTON. I have answered the gentleman as best I can. I am not trying to dodge or equivocate. There are 2 hours of general debate on the bill. I would assume that if we finish the general debate the House would like to complete the bill this evening, but I cannot make any positive statement to that effect at this time.

Mr. HOFFMAN of Michigan. May I inquire of the leadership whether the bill is to be voted on tonight?

Mr. WHITTINGTON. I do not see the gentleman from Massachusetts [Mr. MARTIN] or the gentleman from Massachusetts [Mr. MCCORMACK] on the floor at the moment, but I will endeavor to find out and inform the gentleman as soon as I can locate them, and ascertain their wishes.

Mr. HOFFMAN of Michigan. Mr. Speaker, I make the point of order that a quorum is not present, but I withhold

it until we find out if the bill will be voted on tonight.

The SPEAKER pro tempore. The Chair will count.

Mr. HOFFMAN of Michigan. Mr. Speaker, I withdraw my point of order for the present. I want a roll call on the bill, though, when the vote comes up.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H. R. 7941, with Mr. KARSTEN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. WHITTINGTON. Mr. Chairman, I yield myself 25 minutes.

Mr. Chairman, a country without roads is a country which has never developed. Highways and progress have always gone hand in hand. Civilizations have advanced as highways have been constructed. The early roads of the United States were the roads of hope. They led the pioneers to new lands. They were the means of opening up new lands and extending civilization. In response to the need for transportation in the first 40 years of the Republic, Congress appropriated funds for a number of road projects. Thomas Jefferson early recognized the importance of roads. He stated that it was much more rational to spend public money for roads than for waging war. George Washington in 1785 in a letter to Patrick Henry said that the convenience of the country required that roads leading from one public place to another should be straightened and established by law. Appropriations were made for the Cumberland or National Road, and for roads for military and mail purposes. Travel was by coach, by canal, and by boat. The steamboat supplemented the stagecoach. With the advent of the railroads prior to the War Between the States, and with the expansion of railroads following that war, appropriations for Federal roads were discontinued. The stagecoach was supplanted by the passenger coach. The steamboat was supplanted by the passenger train. River traffic largely disappeared with the beginning of the twentieth century.

ONE HUNDRED YEARS

For almost 100 years there were no Federal appropriations for road construction. The roads were built and maintained by the States and counties, and the streets were constructed by the municipalities.

THE AUTOMOBILE

With the advent of the automobile in the beginning of the twentieth century better roads become imperative. Appropriations for experiments were made by Congress, and in 1912 Congress made a modest appropriation to construct a few roads as an example for State and local road building. Federal appropriations for roads, which were only small for about 40 years and then disappeared for almost 100 years, became a necessity when the motor vehicle was perfected. As Herbert Spencer said: "Progress, therefore, is not an accident, but a necessity." Good roads became imperative. They are responsible for the development of the motor vehicle and for the industrial and agricultural progress of the country. The growth and development of the United States today depends on adequate roads and streets.

FEDERAL AID ROAD ACT OF 1916

The Federal Aid Road Act of 1916 was the beginning of the present system of Federal aid. It was amended and perfected in 1921. It made provision for Federal aid for primary roads. Construction costs were on a 50–50 basis. Authorizations have been passed for 2-year periods since.

EXPANSION

In 1934 and in 1936 the policy of Federal aid was expanded and extended to embrace secondary roads. Railway grade crossings were eliminated. As the production of motor cars increased, highway construction increased. It was stepped up in the 1930's and particularly during the depression of that decade. During World War II, except in aid of the war effort in the construction of defense highways and access highways, highway construction was materially reduced and in many cases highway construction was delayed.

FEDERAL AID HIGHWAY ACTS OF 1944 AND 1948

Before the end of hostilities in 1944 Congress made provision for the continued expansion of Federal aid for highways. The act of 1944 provided for continued aid to primary roads and it extended and largely increased aid for secondary roads. It provided for aid for urban areas. It provided for the continued elimination of railway grade crossings. For the first and only time authorizations were provided in the act of 1944 for each of the 3 years. On account of the increased cost of construction and the scarcity of material, construction was delayed. The act was amended to extend the time in which States could match Federal funds. The 1944 act provided for annual appropriations of $500,000,000 for each of the 3 years and also provided for an interstate system of approximately 40,000 miles primarily on Federal and State highways connecting all of the States of the Union.

The act of 1948 continued provisions of the act of 1944 and authorized appropriations of $450,000,000 for each of the two fiscal years, 1950 and 1951.

THE PENDING BILL

The Federal Aid Highway Act of 1950 now under consideration continues the main provisions of the acts of 1944 and 1948 and authorizes $500,000,000 for primary, secondary, and urban roads for each of the fiscal years 1952 and 1953. Comprehensive hearings were conducted and are available to the membership. The bill was unanimously reported by the Committee on Public Works. The report on the bill is full and complete and contains a detailed description of the bill section by section with the approximate apportionment among the States pursuant to the provisions of the bill.

TWO YEARS

Existing authorizations expire with the fiscal year 1951, and the bill, as stated, is for authorizations for the next two fiscal years in accordance with the policy that has obtained for more than 25 years of making authorizations every 2 years. Among other reasons for the passage of the pending bill is the fact that the legislatures of some 44 States of the Union convene in 1951 when provisions are made for matching Federal aid funds. The bill should be passed during the present session so that all of the States may be advised as to the program for the fiscal years 1952 and 1953, as the State legislatures must make provision for matching the Federal funds. The President in his budget message recommended $500,000,000 Federal aid for each of the said 2 years.

GENERAL PROVISIONS

As was the case with the 1944 and 1948 acts, 45 percent of the $500,000,000 annual authorization is for primary roads; 30 percent for secondary, feeder, or farm-to-market roads; and 25 percent for urban areas. All of the reasons for passing the acts of 1944 and 1948 apply with equal force for continuing and enlarging the highway program as provided in the pending bill. There is additional support for the authorization particularly on account of the phenomenal increase in the number of motor vehicles registered throughout all of the States. For 1949 the number of motor vehicles registered reached an all-time record of 44,350,000. The terms and provisions of the acts of 1944 and 1948 generally apply to the pending bill.

In addition to the $500,000,000 the bill authorizes an additional sum of $70,000,000 for each of said fiscal years for expenditure on the national system of interstate highways located on parts of the Federal aid highways designated in accordance with provisions of section 7 of the 1944 act. The bill also provides that any States that issue bonds for toll-free facilities to accelerate the improvements on the national system of interstate highways may apply for the funds apportioned to the States not to exceed the amounts apportioned to the States. The interstate sysem is in aid of national defense. The general public will benefit. Wider and better roads must be constructed.

There is a constructive provision in the bill that instead of penalizing the entire State for the failure of a county or other local subdivision to maintain the roads constructed with the Federal aid funds, the penalty will be confined only to the county or other legal subdivision.

The costs of rights-of-way especially in the urban areas and in the large centers of population have materially increased. The bill provides that the Federal share on account of the costs of rights-of-way shall therefore be increased from one-third not to exceed one-half.

Floods occur in some of the States every year. Federal aid highways, roads, and bridges are damaged. From time to time authorizations have been made for emergency relief funds in the repair or reconstruction of roads that have suffered serious damages from floods, hurricanes, tidal waves, earthquakes, severe storms, and other catastrophies. For

refining of crude oil produced within the United States has been sharply affected; and

Whereas the security of the United States is jeopardized by a national petroleum policy favoring increased imports of crude oil and curtailment of domestic production and refining of such petroleum; Now, therefore, be it

Resolved, That District 2 Council, Oil Workers International Union, C. I. O., declare ourselves opposed to the unlimited importation of foreign-produced petroleum and foreign refined petroleum products into the United States of America, does not endorse any specific petroleum importation legislation now pending before the Congress, and goes on record as demanding the passage of legislation which would limit such imports to a volume that would not supplant the domestic production and refining of crude oil beyond that point at which reserves of the United States are capable, under accepted conservation practices of supplying the domestic demand.

Whereas labor and management are making an ever wider use of voluntary arbitration as a means of settling their disputes; and

Whereas the present facilities for providing arbitration services are designed mainly to accommodate the larger industrial operations located near larger cities; and

Whereas the majority of our membership works in widely scattered areas which are not near any major cities and our average local union has less than 200 members; and

Whereas the costs of resorting to arbitration have become so excessive as to be beyond the reach of many of our local unions: Now, therefore, be it

Resolved, That we call upon the Federal Mediation and Conciliation Service and the American Arbitration Association to explore with us the possibilities of meeting these problems. Specifically, we ask that efforts be made to accomplish the following ends:

1. Present panel lists should be expanded so that suggested panel members can be drawn from a smaller geographical area near the scene of the dispute, unless the parties request they be drawn from a wider area.

2. The fees of arbitrators should be geared to the resources of the local union and management involved ranging from no fee, or a nominal fee, to a maximum of $50 per day.

3. Arbitrators who make unreasonable expense charges should be dropped from panel lists, or at least from those future lists submitted to unions and companies who have complained of this fact.

4. A uniform code of ethics and rules of procedure should be adopted by the Service and the association and the adherence to such code and rules should be mandatory upon arbitrators unless mutually waived by the parties.

5. The possibilities of securing arbitration services financed by the Federal Government, just as mediation and conciliation services are now so paid, should be immediately examined.

Mr. WATKINS. Mr. President, I call attention also to the fact that on May 9, 1950, I addressed the President of the United States, suggesting to him that many lead- and zinc-mine workers in the State of Utah and other States of the West were out of employment merely because the mines of the Western States could not compete with the cheap importations of these two metals from foreign countries. I urged that the President take advantage of the escape clause of the Reciprocal Trade Agreement Act and that he restore the tariffs, because American industry was not only threatened with being imperiled, but it was actually imperiled in my State and many other States of the West.

In response to that letter I received a letter from the assistant to the President, under date of May 9, 1950, from which I desire to quote. The letter was prepared for the President by Mr. John R. Steelman, assistant to the President. I quote from it:

> You suggest that the tariff duties on lead and zinc should be increased, thus increasing the market price of lead and zinc in this country, and making it possible for the mines in Utah to reopen. I am hopeful that perhaps the recent rise in market prices of these metals has made the outlook for Utah's mines somewhat more favorable.

I may say, Mr. President, that the increase in prices will help somewhat, but not enough to plan a long-range development program, such as the mines would desire to make if they reopen after a long lay-off.

I quote further from the letter:

> Existing levels of demand for lead and zinc in the United States require substantial imports, since the domestic production even at wartime rates would not satisfy total current demand, including stockpile. Although total United States production of lead and zinc has declined from the wartime levels, current production is as high as in the period just before the war. Production during the war was sustained through operation of the premium-price plan, and wartime levels of production should not, therefore, be assumed to be the normal capacity of the industry.

I may say that we have never assumed that prewar production would be the normal production after all we have gone through in war, and being at the present time engaged in a cold war, when we are preparing for a possible third war, and when as a matter of necessity we should follow the policy of keeping our mines open, ready for production, to go forward with full production at a moment's notice.

The final paragraph of the letter from the President's assistant reads as follows:

> Lead and zinc are included on the list of commodities for possible tariff concessions at the trade-agreements discussions in England next September. Hearings on the commodities on this list will be held later this month, and all information regarding the effect of tariff concessions on the domestic industry will be carefully considered before any decision is made. I enclose a copy of the pamphlet announcing the coming negotiations and describing (on pp. 85–87) the procedure for submitting information to the Committee for Reciprocity Information.

Mr. President, this is the first information I have had, and many of my constituents have not received any information until I gave this out, that the products of the West to which I have referred were to be considered as the possible subjects of still further tariff reductions, and that they would be considered at the conference in England in September.

Mr. President, I have wondered at times why the President of the United States objected to the provision in the reciprocity-extension measures which were passed in 1948, as I recall, and the one which was proposed in 1949. I have often wondered why it was he objected to having the Tariff Commission make a study of this matter and make a report to him; and when American industries were imperiled and he decided not to take action to give them relief, why he should object to telling the American people why he failed to give that information and why he did not state the conditions which had arisen.

Mr. President, I see my time has expired. I appreciate having had the opportunity to make this short statement.

REORGANIZATION PLAN NO. 5

The Senate resumed consideration of Senate Resolution 259 disapproving Reorganization Plan No. 5.

Mr. KILGORE. Mr. President, ever since the debate began I have felt a desire to discuss, briefly at least, the need for reorganization. We know that Congress passed a measure which authorized the establishment of the Hoover Commission. The President wisely, as I say, chose a former President, the only living former President, to be chairman of the Commission. We reorganized the Congress. We streamlined it. We may disagree with respect to some phases of that reorganization, but at least we attempted to reorganize the work of Congress. We handed a mandate to the President to reorganize the executive departments. In conformity with that mandate the President appointed a commission headed by former President Hoover as chairman. The Commission in turn brought in experts and formed what it called Task Forces to study each separate department and each separate agency.

Mr. President, the Government has long needed a pulling together of the ramifications of the various small agencies. The agencies in the executive branch are now so sprawled out that I do not see how they can handle their business efficiently. There should be some more closely knit method of administration, supervision, and liaison with the Chief Executive.

Mr. DONNELL. Mr. President, will the Senator yield for a question?

Mr. KILGORE. Mr. President, I may say with all due courtesy that, like my colleague from Wisconsin, I do not want to be interrupted until I complete my statement.

The PRESIDING OFFICER. The Senator from West Virginia would rather not yield at this time.

Mr. KILGORE. I have found that every time an attempt is made to place some agency, however small it may be, under centralized supervision and administration, bitter opposition is met from that agency. It likes to be off in a corner by itself. Anyone who has ever studied the problem of appropriation bills realizes the situation. The Appropriations Committee has repeatedly recommended appropriations, and they have been provided, to enable the executive departments to make surveys of lost motion and wasted effort in an endeavor to reduce expenses. It was in line with that thought that the reorganization of the executive department was under-

taken. I deeply regret the fact that so many of the reorganization plans have failed of acceptance.

Mr. President, I always dislike to take issue with a colleague, but I should like to go over a little bit of the picture. The present objection and all the turmoil respecting the whole plan now under consideration, is raised by the patent bar. Every scintilla of testimony quoted from the record against the plan comes from a patent lawyer.

A patent practitioner is not necessarily a lawyer. He is more frequently an engineer with a little legal training. The creation of various bars proceded so far—and I do not mean brass rail bars—that at one time the Maritime Commission undertook to establish within itself a bar organization, and would not talk to any citizen unless he was a member of the Maritime Commission bar. That is something, however, which has been squelched.

The testimony, as I stated, comes from the patent bar. As Senators may have noticed, in the testimony read by the Senator from Wisconsin, the one who said the NAM was opposed to this plan, was a consultant, a patent lawyer, associated with the patent committee of the NAM.

Mr. President, I am going to tell something about the NAM picture. Back in 1941 a bill was introduced in Congress providing for giving to the War Department the right to seize any plant, part of a plant, or any facility or any patent, if necessary, in the furtherance of the efforts then being made toward rearmament. Seeing the consequences that would result from the passage of such a bill I opposed it in the committee. Immediately a large delegation from the National Association of Manufacturers came over to kind of help with the matter, and I received their aid in good faith. They gently and firmly and sweetly led me into a fight against patent seizures, assuring me that they were going the whole way, but when the fight on patent seizures ended they folded their tents like the Arabs and silently stole away and left me to fight the plant seizure and the facility seizure by myself.

I wonder how many of the manufacturers of my State, small and large, knew anything about the protest which was filed. There is frequently too much of a tendency to write in and say the NAM, or the American Bar Association, or this association, or that association, are opposed to such and such a plan or measure. An association consists of its membership. The testimony that was given came from the patent committee of the American Bar Association, and not from the executive committee or from the legislative committee.

Let us consider another matter. We have heard a great deal said about the Patent Office being a judicial body. That is a rather broad statement. If it is a judicial body why was it not placed in the judicial establishment? Why was it not made a court?

I should like to ask another question. Why is it that the United States court does not entertain appeals from the Patent Office? Suits are begun and tried de novo, from the beginning, in the Patent Office. Therefore it does not partake of the judicial; it is a quasi-judicial organization.

Another point which was raised was that there was no safeguard provided with respect to rulings of a commission. Certain things were pointed out. I call the attention of the Senate to the fact that in each one of the cases in which exception was made there was a rule-making body, a number of persons who made rules. In this instance there is no commission involved. There is a Commissioner who is really the Director of the Patent Bureau.

There is some question also about the Patent Office being an independent arm of the Congress of the United States. Since its creation it has been in the executive branch of government, and has always been in some department. First, it was in the Department of State. Later it was in the Department of the Interior. Finally, after the Butterworth case, as I recall, it was transferred to the Department of Commerce. So it is a part of the executive branch of the Government. It is a quasi-judicial body, passing on patents, itis true. Its decisions are never final. They are always subject, not to review, but to suit in the courts, and the courts' orders are final.

There has also been some question raised about politics and politicians. I have often wondered why we of the Senate ever jump on politicians. I have always found that politicians may be statesmen, but I never saw a statesman who has been very long in his office unless he was a politiican. He would not have a chance to be a statesman long unless he knew something about politics. If he did not know politics, he would be out in the first round.

I call attention to another objection. It seems to be considered terrible for an appointee of the President to take overthe supervision of the Patent Office. It is proposed that a Cabinet officer take it over. A Cabinet officer of the United States is appointed by the President and confirmed by the Senate and he may be removed by the President at any time. He serves at the will and pleasure of the President. So does the Commissoner of Patents. He is appointed by the President, confirmed by the Senate, and serves at the will and pleasure of the President. So if there is political influence involved, and if we are going to charge Presidents yet unborn with malign influences and with ulterior purposes in making appointments, there is just as much chance under the Commissioner of Patents as there is under a Cabinet officer that political influence will be used, because they are both appointed in the same manner.

So far as the management of the Patent Office is concerned, the President of the United States appoints the Commissioner of Patents at his will and pleasure, and the President also appoints the four Chief Assistants to the Commissioner of Patents. Under the present arrangement, the Secretary of Commerce has charge of all the other employees of the Patent Office; and even under the present system he would transfer them if he took a notion to do so. No one may be employed in the Patent Office without the approval of the Secretary of Commerce, as the matter now stands.

I think the present reorganization directive merely clarifies a situation which gradually has become cloudy. I see no change which will occur unless the Commissioner of Patents should get completely out of hand or go off the track, so that it became necessary for the Department head to set him right.

The suggestion has also been made that the proposed Administrative Assistant would be appointed simply to look after the Patent Office. However, Mr. President, nine offices are being lined up, by means of this plan, for office management by the Secretary of Commerce; he is to be charged specifically with the supervision of their duties, and he is to be given an Administrative Assistant to look after the details.

The Secretary of Commerce now allots space to those agencies and handles all the business details. This plan, when adopted, will merely give the Secretary of Commerce a little bit of authority, so that his responsibilities may be properly discharged.

I do not know anything about President Hoover's ideas regarding this matter. I am not a mind reader, at least not at long distance; and unfortunately I am not on Mr. Hoover's telegram-address list. However, I have seen no dissenting report in regard to the Hoover Commission, which says that—

> The foundation of good governmental administration is that the Secretary shall have authority from the Congress to organize and control his Department, and that separate authority to subordinates shall be eliminated.

If there is anything clearer than that, I have not heard it. I think that is one of the best statements of the principles of government I have ever seen.

Mr. President, what will this plan do?

In the first place, as has been stated, it will transfer to the Secretary of Commerce the functions of all the other officers and agencies in the Department of Commerce, except the hearing examiners appointed under the Administrative Procedure Act, which arrangement could not be changed under the present proposal; and also the Civil Aeronautics Board, which is purely a rule-making body; and also the Inland Waterways Corporation, a corporation operating barges and towboats on the inland waterways.

Another section of the plan would permit the Secretary of Commerce to authorize the performance of any of his functions by any officer, agency, or employee of the Department. Such an arrangement is perfectly natural. Secretary Sawyer has already said—and I do not think he has done wrong in saying it—that he will delegate that authority to the present Commissioner of Patents. Thereafter such delegation may be revoked or rescinded if the Commissioner of Patents does not function in conformity with the way in which the Secretary of Commerce thinks that agency of the Department should be op-

erated; or we in Congress can intervene, as can the President, if the head of that agency gets out of hand.

Section 3 of the plan provides for the appointment of an administrative assistant to look after the housekeeping details and affairs of all the agencies which are proposed to be placed under the Department of Commerce, largely for administrative purposes.

There is some question about the administrative rules and procedure. Patent affairs, of course, are largely governed by legal decisions and congressional enactments, and administrative agencies cannot change them. It is true that two members of the Board of Patent Appeals are to be appointed by the President, and the remainder are to be appointed by the Secretary of Commerce, as is the case at the present time, because they are simply patent examiners, and they have to pass on appeals and then submit their rulings to the Commissioner for his final approval.

Mr. President, I think we do ill when we talk about economy, but then do not try to implement economy by setting up a less wasteful system. The more we scatter operations and the more we separate the heads and the personnel chiefs and the more separate budget agencies we have, the more expensive the Government becomes.

Frankly, Mr. President, if I had my way, each part of the executive branch of Government and each of its agencies would be assigned to an individual Cabinet officer; and if necessary for that purpose, we might create two or three new Cabinet officers in order that the President might have complete liaison all the way down through the various agencies without having to call in the chief of any particular agency. The President should have all such agencies under Cabinet officers, so that such Cabinet officers could directly announce to the President the program of each agency.

For the reasons stated, Mr. President, I feel that the resolution of disapproval of this reorganization plan should be rejected.

As all Senators well know, the Patent Office is the alma mater of most patent lawyers. They get their training there. They begin as patent examiners. The Senator from New Jersey [Mr. SMITH] has said he has received many letters of complaint about this proposal. Similarly I have received many letters. However, every one of them has come from a patent lawyer, some of them good friends of mine. They complain about the fact that the salaries of patent examiners are low and that it is difficult to keep competent patent examiners in that employment. I have discovered that the Patent Office has been used as a training school, to a certain extent. I think that is a good idea; I do not condemn it.

Some time ago a patent attorney in Washington came to me—incidentally, he does not come from my State, but I believe he is a native of the District of Columbia—and wanted to know whether I would recommend him to be appointed Patent Commissioner, because, he said, he would like to serve a short time in that position, for it would certainly improve his standing at the patent bar if he could say he was a former Patent Commissioner.

I was thinking of that matter when some of the testimony was read and when great stress was laid upon it.

So, Mr. President, I think there has been much condemnation where condemnation is not due. Let us not get into a political wrangle over this matter. On the contrary, let us think of the welfare of the country and of the importance of streamlining the Government.

At first, the Government was composed of 13 States along the Atlantic Seaboard, but gradually it has been enlarged, and of course now it needs streamlining.

In a somewhat similar situation, the Armed Services have been consolidated. Of course when that consolidation first occurred, complaints were made by at least the Army and the Navy. Perhaps the Air Corps did not complain, because under the consolidation the Air Corps received recognition for the first time. However, the other branches of the Armed Forces did complain. Nevertheless, that consolidation act is working well, not deleteriously.

Now the time has come to place into some kind of organization all the sprawling agencies of various kinds. Otherwise we as a government will have, as the saying is, gotten on our horse and galloped off in all directions.

Therefore, Mr. President, without taking the time to read to this body any of the testimony, but considering the matter purely from the viewpoint of logic and law, let us realize that about the only thing we shall be doing under the present reorganization proposal is a little implementing of the intent and purpose to put the Patent Office within the Department of Commerce, so as to make it possible for a Cabinet officer to see that there is a better performance of duty.

Mr. President, unlike some persons I admit that sometimes even Republicans do a good job, and I am not looking with suspicion on all future Presidents, born or yet unborn, and all future Secretaries of Commerce. I do not believe that Mr. Hoover, with his ability, would have permitted the statement in a report to which reference has been made without challenging it, not only privately but publicly, particularly in view of his great experience. Regardless of our political feelings, we must admit that he was a good Secretary of Commerce, that he built up the Commerce Department, and took in additional agencies there and administered them. Sometimes he has been accused of trying to build it too much, even after he left the Department. I do not think he would have permitted anything he thought would be damaging. I give him credit for sincerity and for honesty of purpose.

For the reasons I have briefly stated, Mr. President, it is my sincere hope that this resolution will not be agreed to, and that plan No. 5 will be put into effect.

The PRESIDING OFFICER. The question is on agreeing to Senate Resolution 259, disapproving Reorganization Plan No. 5 of 1950.

Mr. KILGORE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. CONNALLY. Mr. President, I ask unanimous consent that the call of the roll be temporarily suspended. We are about to agree on some matters, possibly on voting tomorrow, and I believe we can save time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? The Chair hears none, and it is so ordered.

Mr. CONNALLY. I ask unanimous consent that the matter now before the Senate be passed over until tomorrow.

Mr. LUCAS entered the Chamber.

Mr. LUCAS. A quorum call is in order, is it not?

The PRESIDING OFFICER. The Senator from Texas has asked unanimous consent that the quorum call be suspended.

Mr. DONNELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DONNELL. Was not the Senator's request that it be temporarily suspended?

The PRESIDING OFFICER. Well, suspended.

Mr. DONNELL. I should have objected had it been a request to withdraw.

The PRESIDING OFFICER. Was that the request of the Senator from Texas?

Mr. CONNALLY. That was my request.

Mr. DONNELL. That it be temporarily suspended.

The PRESIDING OFFICER. The Chair asked whether there was any objection. The Chair heard none. The Senator from Texas then asked unanimous consent that we postpone further consideration of this matter until tomorrow.

Mr. TYDINGS. Mr. President, may I inquire why we cannot vote on these matters this evening?

Mr. LUCAS. Mr. President, I gave notice last week that we would have a night session, if necessary, to try to dispose of all the reorganization plans. If we allow the matter to go over until tomorrow, we may again run into the same situation. In other words, each plan can take 10 hours, if necessary, and we may have a night session tomorrow night on this plan and two others which are pending. I do not see why we cannot proceed with the quorum call and finish this one, and then the other two. That is what I think should be done. It is in line with what I announced, and I think that should be satisfactory to all Senators. I do not think I have requested the holding of a night session at any time during the second session of this Congress. I merely feel that we should continue and act on the pending organization plans.

Mr. WILEY. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. WILEY. I may say to the distinguished majority leader that I remember what he said about continuing in session until 9 o'clock. I spoke this

afternoon. Of course, I had a very complete audience all the time—in the gallery, I mean. It seems to me, if we could agree to vote on Reorganization Plan No. 5 at 12:30 or 1 o'clock tomorrow, we could speak on it tonight and exhaust the time, but we should first get a unanimous consent to vote on it at say 12:30. I am sure no one would object to that. We could dispose of it and then proceed immediately with the other plan, but we could finish the debate on the pending plan tonight. I understand there are two or three Senators who want to speak on it tonight, but I doubt whether we can get a legal quorum.

Mr. LUCAS. Mr. President, we can get a quorum if it becomes necessary to do so, I am sure.

Mr. WILEY. Then I suggest to the distinguished majority leader that my other reason for the request is this: I am seriously concerned about there being present in the Senate not merely a legal quorum but a good representation of the Senate, so we may get an expression of Senators on this very vital and important subject, which is now seemingly beginning to catch on. I was informed at the dinner table tonight that, if my resolution were adopted, another recommendation would be immediately forthcoming from the President, with the patent provision omitted, and that we could then approve the plan and get through with it.

Mr. LUCAS. I know nothing of rumors around the Capitol.

Mr. WILEY. Does the Senator never pay attention to them?

Mr. LUCAS. No; I do not.

Mr. WILEY. I have my doubts.

Mr. LUCAS. If I did, I would be worse off than I am.

Mr. NEELY. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. NEELY. My point of order is that, under the order for a quorum call, all this discussion is out of order. I ask for the regular order.

The PRESIDING OFFICER. The regular order is demanded. The clerk will resume the calling of the roll.

The Chief Clerk resumed and concluded the calling of the roll, and the following Senators answered to their names:

Aiken	Hayden	Millikin
Anderson	Hendrickson	Mundt
Benton	Hill	Neely
Brewster	Hoey	O'Conor
Bricker	Holland	Robertson
Bridges	Humphrey	Russell
Butler	Ives	Saltonstall
Byrd	Johnson, Colo.	Schoeppel
Cain	Johnson, Tex.	Smith, Maine
Capehart	Kem	Smith, N. J.
Chapman	Kilgore	Sparkman
Connally	Knowland	Stennis
Cordon	Leahy	Taft
Darby	Lehman	Thomas, Utah
Donnell	Long	Thye
Douglas	Lucas	Tydings
Dworshak	McFarland	Watkins
Eastland	McKellar	Wherry
Ellender	McMahon	Wiley
Ferguson	Magnuson	Williams
Fulbright	Malone	
George	Martin	

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to Senate Resolution 259.

Mr. LUCAS. Mr. President, a few days ago I gave notice to the Senate that we would make disposition of the reorganization plans before tomorrow at midnight. Obviously, we must do that in view of the fact that three of the plans have been reported with recommendations of disapproval.

Mr. WILEY. Two of them.

Mr. LUCAS. Some suggestion has been made that we try to reach a unanimous-consent agreement to vote on all three of the plans sometime tomorrow afternoon. If such a unanimous-consent agreement can be reached, I shall not compel the Senate to sit tonight. However, it is a question either of getting that kind of unanimous-consent agreement or continuing to sit tonight until we have finally disposed of the pending resolution. Perhaps we can also dispose of the other resolutions. I do not know whether any Senator will make objection to that kind of unanimous-consent agreement. However, before I propose it, I should like to know whether there will be any objection to it.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. HUMPHREY. Is there any reason why we cannot vote on plan No. 5?

Mr. LUCAS. There is no reason why we cannot vote on it, so far as I am concerned. A quorum is present.

Mr. TAFT. Does not the Senator from Illinois see the unfairness of proceeding when there are only 49 Senators present and it takes 49 votes to disapprove a plan? Is not the Senator from Wisconsin put at a terrible disadvantage?

Mr. LUCAS. Mr. President, I do not agree with that theory at all. I do not agree that it is utterly unfair to put the proposal of the Senator from Wisconsin to a test at this particular time, in view of the fact that some 4 or 5 days ago I announced that we would have a night session tonight. I think this is the only time during the second session of the Eighty-first Congress that I have attempted to hold a night session. I do not believe anyone can say that the Senator from Illinois has been unfair or unkind to Senators so far as getting away to dinner engagements during the evening has been concerned. I have tried to accommodate them all, so that they could get home or to their dinner engagements.

Mr. WILEY. Does any Senator object?

Mr. LUCAS. I have not proposed the unanimous consent agreement yet.

Mr. President, we shall hold some night sessions on many measures if we do not move faster than we have been moving. I take it that some Senators would like to get away sooner or later, and we do not propose to sit, I hope, until next October. That is another reason why I should like to make disposition of plan No. 5 tonight and then proceed with the conference report on ECA legislation and other privileged matters tomorrow and get them out of the way.

I shall now make a unanimous consent request, because several Senators are interested in it. Mr. President, I ask unanimous consent that the Senate vote on plan No. 5 on or before 1 o'clock tomorrow, on plan No. 17 on or before 2 o'clock tomorrow, on plan No. 13 on or before 3 o'clock tomorrow, and that the time be controlled by——

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. AIKEN. Did I understand the Senator to say that it is proposed we vote on plan No. 5 at 1 o'clock and on plan No. 17 at 2 o'clock tomorrow?

Mr. LUCAS. Yes.

Mr. AIKEN. That would allow only 40 minutes for debate. It would seem to me that it would be better to allow not over an hour for debate on each of the two other plans, because when time is taken out for a quorum call not much time is left.

Mr. TYDINGS. Mr. President, will the Senator from Illinois yield?

Mr. LUCAS. I yield to the Senator from Maryland.

Mr. TYDINGS. The Senator from Illinois announced that the Senate would meet tonight, and many of us arranged our plans so that we could be here. Some Senators evidently did not arrange their plans and are not here. So we who are in attendance have been penalized by having to adjust our engagements so as to be present, only to find, after we have altered our plans for the evening, that the signals have been changed, and the Senate is to take action tomorrow. Every Senator had notice of the contemplated session, I had notice of it, and we are here ready to legislate.

I should like to have the Senator from Illinois at least modify his request, as an indication of good faith toward those of us who have come in response to his request, for a vote on plan No. 5 tonight, and put his unanimous-consent agreement before the Senate for action on the other two for tomorrow. I think we should vote on all three of the resolutions tonight, but I would be satisfied to go along with what I have suggested.

I do not like to be called here into a night session and then find, when we are here, and it is about 7:30 o'clock, that we are to go over until the next day. Every Senator who is not here is absent because he does not want to be here, for every Senator was notified, I think it is up to us to proceed under the agreement we had tentatively, and vote on at least the one resolution tonight.

Mr. WILEY. Mr. President, will the Senator yield?

Mr. TYDINGS. In a moment. Therefore, if the Senator from Illinois would modify his request to vote on Plan No. 5, let us say, in 20 minutes or half an hour, or whatever he may decide on, and ask unanimous consent for a vote on the other two plans tomorrow, I should not object.

Mr. WILEY. Mr. President, will the Senator from Illinois yield?

Mr. LUCAS. I yield.

Mr. WILEY. I wish to take exception to the statement of the distinguished Senator from Maryland about signals. There was not any "signal" that we would vote tonight, and so far as I am concerned, we will not vote tonight. I have at least 2 hours' discussion, and I

think some other Senators want time. I think the suggestion is utterly unfair. I gave way to other Senators. I accommodated first the Senator from Oklahoma, and he was getting ready to speak; then he was called away. Then I gave way to the Senator from Colorado [Mr. JOHNSON] twice, and this is the kind of treatment I am asked to take. I do not think the Senator from Maryland is playing cricket at all. I think that what he is doing is in utter disregard of some of the courtesies Senators are entitled to expect. We can go on and discuss the pending resolution tonight, and vote at 12:30 o'clock tomorrow, without interfering with any "signals." That is my viewpoint. I should like to have the original proposition put and find out where we stand on this unanimous-consent request.

I leave it to the majority leader whether he ever stated there would be a vote on plan No. 5 tonight. He said we would have a night session. I am in favor of a night session. I am in favor of exhausting the discussion of all the facts tonight, and then all I ask is, as the Senator from Ohio suggested, that we have tomorrow an expression of the Senate, and not have the expression of a few Senators now. We should not be criticized or lambasted. We are staying on the job, and we should not be taken advantage of.

Mr. TYDINGS. Mr. President, will the Senator from Illinois yield?

Mr. LUCAS. I yield to the Senator from Maryland.

Mr. TYDINGS. I should like to say to the able Senator from Wisconsin that I had no desire to lambaste him, but let me point out to him that when the majority leader said we would have a night session tonight, he knew, as well as I did, that if this unanimous-consent agreement were entered into the Senate would recess immediately without any night session.

Mr. WILEY. Not necessarily. Those who desire to do so can talk.

Mr. TYDINGS. We will find it will not be any longer than 15 minutes after the unanimous-consent agreement is entered into before some Senator will move a recess until tomorrow; the motion would not be detabable, and it would carry just like a breeze going over a wheat field.

I do not mind coming here and having a night session, but when I am told there is to be a night session, I think we ought to have it, and not cater to those who do not care to exert themselves or do not have the ingenuity to arrange their affairs so they can come.

Mr. WILEY. I might say that I was informed that three Senators on the Democratic side were ready to speak in opposition to my resolution. I have no objection to their speaking. In fact, I would enjoy hearing them, and I am satisfied that none of them will raise objection, because they see the equity of my position. I shall remain here until they have exhausted their facts, if it is not beyond 2 o'clock in the morning.

Mr. KILGORE and Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Illinois yield; and if so, to whom?

Mr. LUCAS. I should like to make an inquiry.

Mr. KILGORE. One of the three Senators referred to spoke, but the Senator from Wisconsin was not present to hear him.

Mr. LUCAS. Mr. President, I should like to inquire of the Parliamentarian as to how much time has been consumed by the opponents of the resolution.

Mr. WILEY. Two hours and fifteen minutes.

The PRESIDING OFFICER. The proponents of the resolution have use 153 minutes, the opponents 38 minutes.

Mr. WILEY. Mr. President, will the Senator from Illinois yield?

Mr. LUCAS. I yield.

Mr. WILEY. I was informed when I went down to dinner that I had used up 2 hours. Then I yielded 15 minutes. Two hours is 120 minutes, and 15 minutes makes 135 minutes. I do not know how the Chair can make it 153 minutes.

The PRESIDING OFFICER. The quorum call was charged equally to the two sides, and 10 minutes has been consumed in the present discussion.

Mr. WILEY. I thank the Chair very much. I am glad to note the accuracy with which the time is being kept.

Mr. AIKEN. Mr. President, the purpose of a possible night session tonight was to make sure that all of the plans to which there was objection would be voted upon before the deadline came tomorrow night. If there is a unanimous-consent agreement to vote on them at an early hour tomorrow, that would have the effect of obviating the purpose for which a night session might have been held tonight, would it not?

Mr. LUCAS. Mr. President, I am going to make the unanimous-consent request again. I regret that we are not going to be able to vote on the pending resolution tonight, as well as the other resolutions. I should like to remove them from the calendar as fast as possible, one way or the other.

I want the Senator from Wisconsin to know that the threat of recess or adjournment does not worry me one iota. It is up to the Senate, if the Senate wants to take such action. I heard him say that that is what he was going to suggest.

Mr. WILEY. Will the Senator yield?

Mr. LUCAS. Not just for a moment.

The PRESIDING OFFICER. The Senator from Illinois declines to yield.

Mr. WILEY. I do not make threats.

Mr. LUCAS. I heard what the Senator said.

Mr. WILEY. I said——

Mr. LUCAS. I did not yield.

The PRESIDING OFFICER. The Senator from Illinois declines to yield.

Mr. LUCAS. Please let me alone for a moment. I am going to ask unanimous consent again, to see if I can get an agreement.

I now ask unanimous consent that after the Senate convenes tomorrow at 12 o'clock it proceed to vote at 1 o'clock upon plan No. 5; that there be 1 hour of debate on plan No. 17 thereafter, and that the Senate then proceed to vote on it; that there be 1 hour of debate on plan No. 18 thereafter, and that the Senate then proceed to vote on plan No. 18, the time to be controlled by the Senator from Maryland [Mr. O'CONOR] and the Senator from Vermont [Mr. AIKEN].

The PRESIDING OFFICER. Is there objection to the request of the Senator from Illinois?

Mr. SPARKMAN. Mr. President, reserving the right to object, and I do not intend to object, I wish to be certain that in the time controlled by the Senator from Maryland I may have as much as 15 minutes.

Mr. O'CONOR. Mr. President, I can certainly give assurance that the Senator's request will ge granted.

Mr. HUMPHREY. Mr. President, will the Senator from Illinois yield?

Mr. LUCAS. I yield to the Senator from Minnesota.

Mr. HUMPHREY. I merely wish to make the observation that a moment ago some comment was made as to the fairness of the present situation. It just so happens that the junior Senator from Connecticut [Mr. BENTON] and the junior Senator from Minnesota have been on the floor of the Senate in connection with the reorganization plans day after day, because of being members of the Senate Committee on Expenditures in the Executive Departments. It also happens that in connection with plan No. 4, when there were not present many more Senators than are now here, we did not have this difficulty, and we remained in session to a rather late hour.

I do not intend to object, but I do not intend to have the RECORD read as if there were any intention of unfairness. As a matter of fact, we are being overly fair, we are being most considerate, because any objection at this moment would put this plan to rest.

I shall go along with the plan, because I believe we ought to expedite the business of the Senate, but I can say, in connection with the remark of the Senator from Maryland, that plans have been made and have been disrupted. Some have been here from 12 o'clock noon on through in an effort to get the consideration of these plans under way and get the plans out of the way. So tomorrow, if we can agree to the unanimous-consent request, perhaps we can complete action on the plans.

Mr. LUCAS. Mr. President, in conclusion I want to make the further reply that I am not responsible for the failure of Senators to be present. I assume no responsibility for that. If we should vote tonight, it would not be because we are unfair to Senators, but it would be because Senators are unfair to themselves in not being present after notice has been given.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. WHERRY. I certainly agree with the majority leader in the announcement he made about having a night session. He did not say when the vote would be taken, but he did say there would be a night session. So far as I am concerned,

I think the majority leader has offered a very fair unanimous-consent request, and I hope that no Senator will object, and that we will continue with the program as outlined by the majority leader.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request submitted by the Senator from Illinois? The Chair hears none, and it is so ordered.

Mr. DONNELL. Mr. President, will the Senator yield for an inquiry?

Mr. LUCAS. I yield.

Mr. DONNELL. I understood earlier today that the majority leader stated there would be opportunity for presentation of routine matters for the RECORD. I have certain insertions for the Appendix of the RECORD and some other routine matters I should like to present before the Senate takes a recess.

Mr. LUCAS. Senators should remain because they may hear a great debate upon this issue tonight. I plead with Senators not to leave.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. WHERRY. Mr. President, I asked the distinguished majority leader earlier in the day whether or not he was ready to make an announcement about the Decoration Day vacation.

I wonder if he is ready to make that announcement now.

Mr. LUCAS. I cannot make it today, I will say to the Senator from Nebraska, but will make it tomorrow afternoon, after the Democratic policy committee has met.

Mr. WILEY subsequently said: Mr. President, will the Senator yield?

Mr. LUCAS. I yield for a question, not for a speech.

Mr. WILEY. I wish to express my appreciation to the majority leader for his most exemplary words and conduct—as were those of all other Senators—even though the Senator's conduct was not on a par with his words. However, as he knows, his words were exemplary and of the best.

Mr. LUCAS. Mr. President, it is always grateful to hear that the Senator from Wisconsin is pleased, as he always is if he gets his way.

Mr. WILEY. Mr. President, as long as my way is the way of righteousness and fairness, it is always a pleasure to have the Senator agree with me as he has done tonight.

Mr. LUCAS. It is always a pleasure to agree with the Senator, who most of the time is correct.

Mr. WILEY. Only most of the time?

Mr. LUCAS. Of course I do not say that any Senator is always perfect.

INVALIDATION OF CALIFORNIA ALIEN LAND ACT UNDER UNITED NATIONS CHARTER

Mr. DONNELL. Mr. President, on April 28, 1950, in the CONGRESSIONAL RECORD, beginning at page 6072, is set forth the opinion of the District Court of Appeals of the State of California, Second Appellate District, Division 2, in the case of Sei Fujii versus the State of California, which decision declared invalid the Alien Land Act of that State because of conflict with the United Nations Charter.

Mr. President, on page 7174 and following of the CONGRESSIONAL RECORD of May 16, 1950, there is reference to an analysis by Professor Manley O. Hudson, included as an appendix in a petition for rehearing in the Sei Fujii case filed by Attorney General Howser.

On May 19, 1950, as appears at page 7419, I stated, after some mention had been made of Professor Hudson's article, as follows:

Mr. President, if it would not be assuming too much upon myself, if the Senator personally prefers to have me do so, I shall endeavor to secure a copy of the statement of Dr. Hudson and incorporate it in the RECORD.

To which the Senator from Texas [Mr. CONNALLY] replied:

That is agreeable to me.

On May 20, I telephoned to Mr. Manley O. Hudson at Cambridge, Mass., who informed me in substance that he would rather not have his article put into the CONGRESSIONAL RECORD prior to its publication in the American Journal of International Law for July. Therefore, Mr. President, I do not offer it at this time. I wanted the RECORD clear as to why the article was not being presented.

IMMUNITY OF SENATORS

Mr. HUMPHREY. Mr. President, on Friday, May 19, in the course of my comments, on page 7400, I discussed the rules of the Senate. In doing so I did not appropriately take note of the fact that the rule relating to immunity of Senators for statements they make on the floor of the United States Senate is based on section 6, article I, of the Constitution.

I ask unanimous consent that this statement be placed in the permanent RECORD for May 19, together with article I, section 6, of the Constitution, which reads as follows:

1. The Senators and Representatives shall receive a compensation for their services to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses; and for any speech or debate in either House they shall not be questioned in any other place.

The PRESIDING OFFICER. Without objection, it is so ordered.

A PROPOSAL FOR A COMMISSION ON NATIONAL SECURITY

Mr. HUMPHREY. Mr. President, there appears an editorial in this morning's Washington Post entitled, "The Road Back to America." This editorial presents a challenge to the American Congress and the American people. In view of its importance, I ask unanimous consent to have printed in the body of the RECORD a statement which I have written pertaining to it, and that the editorial follow the statement, so that it may be brought to the attention of the Congress.

From time to time there has been other suggestions recommending the creation of a Commission on National Security. I have in the past associated myself with such a proposal. It is my intention to introduce within the next few days a resolution for the establishment of such a Commission. I invite other Senators to join with me in the introduction of such a resolution.

There being no objection, the statement and the editorial were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUMPHREY

Our allegiance to and guaranty of freedom of press has served us well. A constructive example of the benefit derived from competition of ideas and freedom of inquiry was dramatized by the lead editorial in the Washington Post of Monday, May 22. This editorial entitled, "The Road Back to America," sounds a challenge to every person of democratic faith. This brilliant editorial, "The Road Back to America," extends a particular challenge to the Congress and to the President of the United States. With keen editorial insight into the nature of our present discontent, the editorial staff of the Washington Post has described the dimensions and intensity of our problem in the following words:

"For weeks the Capital has been seized and convulsed by a terror. It is a terror akin to the evil atmosphere of the alien and sedition laws in John Adams' administration. That is the measure of the problem to which, with our readers' indulgence, we here propose to address ourselves at some length.

"What has permitted this thing to come to pass?

"The rising distrust, the roaring bitterness, the ranging of Americans against Americans, the assault on freedom of inquiry, the intolerance of opposition—all this malaise, it seems to this newspaper, has its roots in a deep and troubled state of the Nation's mind. Fear and frustration abound—fear of the unseen struggle in which we are locked, and frustration because of our inability to get directly at it."

Unlike many critics and commentators who tell us what is wrong with the state of the Union, and describe in detail the nature of our discontent, the editors of the Washington Post have suggested a proposal that affords a means of creating a positive, intelligent, and constructive program to revise the dangerous trends which are clearly evident.

As one who has been deeply disturbed by the signs of our times and the evidence of fear which seems to grip our people, I applaud and welcome this editorial. It is a refreshing and encouraging demonstration of the vitality of our democracy.

The hour is late. The time for constructive action is at hand. We need more than the normal processes of our legislative and executive branches of government. We need the constructive advice and planning of our most enlightened citizenry. We need to go back to the people and to call upon citizenship leadership from the communities of America to join with their Government in leading us out of this modern-day wilderness of fear and confusion.

The proposal as outlined in the editorial for a commission on national security warrants the immediate attention of the Congress. The protection of our national security is the paramount issue facing our people. The direction of our foreign policy and our relationships with the freedom-loving peoples of the world is the paramount issue facing the world. The manner in which we meet the threat of Communist totalitarianism and the evil inherent in such a system is one that goes far beyond partisan consideration. Our program to protect our national security and to strengthen our foreign policy requires the patriotic, unselfish efforts of all people who are dedicated to the principles of democracy.

The Washington Post is right when it says the "unpartisan citizens' committee would elevate current debate. It would catalyze the decencies of America. In the light of full and trusted information, which proper

REORGANIZATION PLAN NO. 5

The Senate resumed consideration of Senate Resolution 259 disapproving Reorganization Plan No. 5.

Mr. O'CONOR. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. O'CONOR. Is it in keeping with the provisions of the unanimous-consent agreement that the remaining time, which I note to be approximately 26 minutes, be divided between the Senator from Vermont [Mr. AIKEN] and the Senator from Maryland?

The VICE PRESIDENT. The law requires that the time be equally divided. The only question is as to who will control the time. The Chair believes that the Senator from Maryland and the Senator from Vermont are to control the time.

Mr. O'CONOR. Then, Mr. President, I yield 5 minutes to the Senator from Illinois.

The VICE PRESIDENT. The Senator from Illinois is recognized for 5 minutes.

MEETING OF THE SECRETARY OF STATE WITH MEMBERS OF CONGRESS

Mr. LUCAS. Mr. President, at the meeting of congressional leaders at the White House this morning, we were informed by the President of the United States that Secretary Acheson will return from Europe in a short time and will address Members of Congress 1 week from tomorrow, at 12:30 p. m., in the auditorium of the Library of Congress. On that day, Wednesday, May 31, immediately after the convening of the Senate, there will be a quorum call, and then the Senate will proceed in a body to the auditorium of the Library of Congress.

It is my understanding that Secretary Acheson would like to make a full report to Members of Congress upon his discussions with the foreign ministers of the Atlantic Pact countries, which discussions produced many constructive results. In London, Secretary Acheson expressed his approval of the bold proposal by Robert Schuman, the French Foreign Minister, to pool French, German, and possibly other European coal and steel production. He pointed out that the Schuman plan contained "objectives which had long been favored by the Government of the United States."

There can be no doubt that the French proposal will help us in tying western Germany more closely to the free nations of the world. If this plan is developed in a creative spirit, in a spirit for the mutual benefit of all, it will transform, in my opinion, the economy of Europe and will also make western Europe much stronger against those who seek to carry out aggressive policies.

On May 11, Representative HALE BOGGS, of Louisiana, placed in the CONGRESSIONAL RECORD, on page A-3761, an editorial from the Washington Post, under the caption "Union in Western Europe," and also placed in the CONGRESSIONAL RECORD of that date the details of the plan for the industrial unification of Europe, as set forth by Robert Schuman, the French Foreign Minister. I mention that merely in order to give Senators information regarding where they may find the editorial and the text of the plan, if they desire to read them between now and the time when the Secretary of State will meet with Members of Congress and discuss the plan. Not only does he desire to discuss in detail what has happened during his trip with respect to the unification of the European countries regarding this very important economic question, but he will also answer any questions which may be propounded to him by Members of Congress. The meeting will be in executive session; it will be similar to the one we had sometime ago when former Secretary of State George Marshall reported to the Congress while he was chief of staff. I recall that that meeting was very beneficial to all concerned and very constructive.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. SALTONSTALL. I have read in the newspapers, which is my only source of information about the matter, that the Secretary of State made, while he was abroad, certain agreements with relation to the extension of the economic assistance after 1952 and also with relation to military agreements. Does the Senator know whether it is Secretary Acheson's intention to discuss those matters at the same time?

Mr. LUCAS. I cannot advise the able Senator from Massachusetts as to what Secretary Acheson will discuss. However, after he finishes his address before the Members of Congress, he will then request Members of Congres to propound any inquiries they may desire with respect to what he did on that trip, and he will be in a position to answer the Senator at that time.

Mr. SALTONSTALL. I merely make that observation because it seems to me that the plan ties in the military assistance and the steel problems and all that goes with them.

Mr. LUCAS. I am sure that any questions which any Senators or Members of the House of Representatives desire to ask the Secretary of State will be answered in a forthright and understandable way, as he understands the various matters.

The VICE PRESIDENT. The time of the Senator from Illinois has expired.

Mr. ROBERTSON. Mr. President, I ask unanimous consent that the majority leader may have 1 minute further, in order that I may ask him a question.

The VICE PRESIDENT. The time is in control of the Senator from Vermont and the Senator from Maryland.

Mr. O'CONOR. I yield.

Mr. ROBERTSON. I have a question I should like to ask the majority leader.

The VICE PRESIDENT. The Senator from Virginia is recognized for 1 minute.

Mr. ROBERTSON. The question I desire to ask is whether the majority leader does not think it would be wise, since the Members of the Senate I am sure are deeply interested in what is going to be said, to be permitted to submit questions in writing, in order to give the Secretary of State an opportunity before answering them, to know what the questions are and to formulate his reply. We should like the replies to be as definite and as specific as possible. If one is required to make an off-the-cuff reply, he must be cautious, because the replies will be going to the press, and we might not get so far as we could if the Secretary knew exactly what the questions were and had the time in which to consider how far he could go in answering.

Mr. LUCAS. Mr. President, in reply to the Senator from Virginia, I should like to say that if any Senator desires to propound any questions to the Secretary in advance, by way of a memorandum, I think that will be entirely proper. However, I believe that certain questions will arise in the minds of Senators after they hear the Secretary's speech, which would not occur to them probably otherwise.

The VICE PRESIDENT. The Senator's time has expired.

REORGANIZATION PLAN NO. 5

The Senate resumed consideration of Senate Resolution 259 disapproving Reorganization Plan No. 5.

Mr. O'CONOR. Mr. President, I yield to the junior Senator from Connecticut the remainder of the allotted time.

The VICE PRESIDENT. The Senator from Connecticut is recognized for 6 minutes.

Mr. BENTON. Mr. President, the issue on this plan is very clear, as it has been on similar reorganization proposals from the President. The issue stems from the recommendations of the Hoover Commission that departmental authority and responsibility should be centralized in department heads. The issue is as simple as this—exactly as on plans 1 through 6, inclusive. We have here, as in so many other areas of the Government, a situation which is somewhat cloudy or confused. On plan No. 1, the clouds of confusion hang over the Comptroller of the Currency. On plan No. 5, they hang over the Commissioner of Patents. The clouds are fostered and fomented, even when not generated, by private groups who think they profit from them.

If the President of the United States had the personal time to devote to the Comptroller of the Currency, the Commissioner of Patents, and the many, many other bureaus for which he is responsible there would, of course, be far less need for these reorganization proposals. The President appoints the Commissioner of Patents, just as he does the Secretary of Commerce.

The Commissioner of Patents serves at the will and pleasure of the President, just as does the Secretary of Commerce. If the President had the time, there is a presumption that he might or could hook them together in a common administrative policy for economy and efficiency. Surely the President, particularly in view of the great and impossible pressures on him and on his time, should have the right if he chooses to exercise his control over administrative policy through making one of these officers for whom he is

responsible report to him through another officer for whom he is also responsible. That is the kind of good organization procedure which is followed by all top administrators.

Therefore, all that is involved in Reorganization Plan No. 5 is that the President is saying, in effect, to the Commissioner of Patents: "Hereafter I want you to report to me clearly and unequivocally through the Secretary of Commerce instead of occasionally and deviously."

Is this change so drastic? As pointed cut yesterday by the distinguished senior Senator from West Virginia, the Secretary of Commerce already has charge of all employees in the Patent Office, except the Commissioner and the four chief assistants who are appointed by the President. Under the present system the Secretary of Commerce could transfer employees in the Patent Office, if he wished, and no one can be employed in the Patent Office without his approval.

If this situation between the Secretary of Commerce and the Commissioner of Patents had not been allowed to become chaotic and confused in the first place, it would not now require the simple clarification which is going under the big name of reorganization.

Almost the only witnesses to appear in opposition to plan No. 5 were the patent attorneys. There seems to be no opposition to the clarification of the Secretary of Commerce's responsibilities over the other eight bureaus involved in this reorganization. The patent attorneys, however, fear that their interests will be adversely affected. They fear change. Or perhaps it is more accurate to say that they fear the possibility of change because the Secretary of Commerce has attested to the fact that he does not plan any change in the present operation and responsibility of the Patent Office.

Mr. President, I have previously read on the floor of the Senate from the testimony of Mr. Folk. I refer to it again because it was read at such length by the distinguished Senator from Wisconsin [Mr. WILEY] yesterday. But the Senator from Wisconsin omitted the key section of this testimony, which is to be found on pages 66 and 67 of the hearings. This section was by far the most important of all.

Now, whom does Mr. Folk represent? He said that he served the NAM for the past 12 years "more as a hobby than anything else," as its patent adviser. He said he "spoke for that association," that is, the National Association of Manufacturers, with its 15,000 voluntary members.

Mr. President, I ask unanimous consent to have inserted in the RECORD at this point in my remarks an excerpt from the CONGRESSIONAL RECORD of May 11, appearing at page 6951, wherein portions of Mr. Folk's testimony are included.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

For the Department of Commerce.

When I had a chance to question Mr. Folk, near the end of his testimony, I asked him several questions. I shall read these questions and his replies, as taken from the printed testimony:

"Mr. BENTON. These manufacturers who are among our biggest taxpayers * * * how many of them * * * had the other side of the case presented to them before agreement was reached on this statement which you submitted in the name of the National Association of Manufacturers?

"Mr. FOLK. I can only say that I was authorized by the National Association to take the position I have taken.

"Mr. BENTON. How many of the 15,000 members that you list on the first page of your statement have approved this statement?

"Mr. FOLK. Of course, it was practically impossible, it would be impossible, to do that. I did submit these views to our committee on patents and research of the National Association of Manufacturers. A committee of more than 100 * * * constitute that committee.

"Mr. BENTON. You think perhaps those 100 men have been exposed to the memorandum you presented today?

"Mr. FOLK. They have not seen the memorandum, but it is the position NAM would take concerning the reorganization plan."

Not even the 100 men, Mr. President, had seen the memorandum.

"Mr. BENTON. If they have not seen the memorandum, would you think it is a fair assumption to say that they have not been exposed to the kind of presentation or arguments presented by Secretary Sawyer, Mr. Fleming, and Mr. Lawton this morning which present the arguments demonstrated, according to those who have studied most thoughtfully, why this particular plan is in the interest of efficiency and economy and the best conduct of this Government?

"Mr. FOLK. I did not see the arguments of the Secretary of Commerce, Mr. Sawyer, myself, until today. So I dare say the members of the association did not have any more information than I had."

Mr. BENTON. Mr. President, this testimony surely brings out very vividly the point made yesterday by the senior Senator from West Virginia, that the opposition here is from patent attorneys, not from the trade associations with which they may be connected. In this connection, I ask unanimous consent to insert in the RECORD at this point in my remarks another excerpt from the RECORD of May 11, appearing at page 6951.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The chairman of the [patent] committee [of the NAM] is Albert E. Noelte, treasurer of the Priscilla Braid Co. The vice chairman is Merwin F. Ashley, manager of the patent department, United Shoe Machinery Corp. Other members [also vice chairmen] of the patents and research committee are Robert Gottschalk, assistant manager, development and patent department, Standard Oil Co.; Leslie R. Groves, vice president, Remington Rand, Inc.; Richard O. Loengard, president, United Chromium, Inc.; and Randolph T. Major, vice president and scientific director, Merck & Co., Inc.

The great corporations which are interested in patents and which belong to the NAM and pay their dues, put on the patent committee of the NAM their representatives who are charged with the duty of considering patents and who are interested in patents. But did these 100 men, these 100 subordinates, meet and consider Mr. Folk's memorandum? No, they did not meet or consider it. Who did approve it? Was it a subcommittee? Was it three or four men in New York, who operate in the name of the committee? Was it two or three members of the staff of the National Association of Manufacturers? Who is it that is responsible for this attitude on the part of the NAM? I know it is not the presidents and heads of the constituent 15,000 companies. I know that those men, hundreds of whom are within my own circle of personal acquaintances, would approve the principles advocated by former President Hoover and his Commission as recommended in these reorganization proposals.

Mr. BENTON. Mr. President, I have one further point to make. I do not think it has been sufficiently emphasized that there is no change proposed in the way a patent will be granted. It will be handled exactly the way in which it has been granted in the past. From an adverse decision of the Board of Appeals in the Patent Office, an appeal may be taken to the United States Court of Customs and Patent Appeals. This takes the issue right out of the hands of the Commissioner of Patents and right out of the hands of the Secretary of Commerce. This court may review the case on the basis of the record. Further, Mr. President, a civil action may be brought against the Commissioner in the United States District Court for the District of Columbia. Does not this give adequate protection against alleged political influence? Certainly the Secretary of Commerce will have no influence over that court. Furthermore, because the Secretary of Commerce operates in the open, under the kleig lights which shine upon the President's Cabinet officers, there is every reason to hope that this operation, like so many others, will be more carefully scrutinized than those of hidden operators who do most of their work in relative obscurity.

Thus, Mr. President, I venture the hope that the Senate will now reject the resolution of disapproval of Reorganization Plan No. 5, and also the resolutions disapproving Reorganization Plans Nos. 17 and 18. I venture to hope the votes yesterday, upholding Reorganization Plans 8 and 9, are a good omen. I like to think that the tide has turned. I believe that, as the Senate has acquired a greater appreciation of the real issues at stake, the chances are improved for all the remaining reorganization plans of the President.

The VICE PRESIDENT. The time of the Senator from Connecticut has expired. The Senator from Vermont.

Mr. WILEY. Mr. President——

The VICE PRESIDENT. The senior Senator from Vermont has control of the remainder of the time, if he wishes to use it. Thirteen minutes remain.

Mr. AIKEN. Mr. President, if the Senator from Vermont has control of the time, it is the result of a sort of accident which happened last night. I have no comments to make, myself. I am not opposed to the plan. If there is present any Senator who is opposed to it, I shall be glad to yield the time. Does the Senator from Wisconsin desire further time in which to speak against the plan and in favor of the resolution?

Mr. WILEY. Yes, Mr. President.

Mr. AIKEN. Mr. President, so far as I know, no one else desires to speak against the plan.

The VICE PRESIDENT. The Senator from Wisconsin is recognized.

Mr. WILEY. I am very much surprised and amused by the argument of the distinguished Senator from Connecticut [Mr. BENTON], yet I realize the technique in a case like this. I recognize that probably very few Senators heard the analysis of the evidence, yet the conclusions are definite and certain. The conclusions are, first, according to the testimony of the Secretary of Commerce, that he does not want the Patent Office included. It is true he came before the committee and said he would take it, but he said if he got it he would turn it right back.

The next conclusion that is definite and certain is that all the patent organizations, composed of patent attorneys, in America sense the fact that if this resolution becomes law it will threaten not only the patent system but will be the entering wedge to disintegrate the judicial system of the country. When and by whom was this thought evolved? Look at all the administrative branches which have been taken over, and also the executive branches. That is where the President or his underlings should attempt to reorganize. That is where the President should expect to bring about efficiency.

I said yesterday in arguing this matter that next year at this time we shall see how much efficiency is brought about. This is nothing but a large over-all political proposition of reorganization. I said, too, that there are Members of the Senate who, if they were President of the United States, would say to the heads of the executive departments, "Get an efficiency expert to look over this agency. Tell me how many typewriters you have for each typist. Tell me how many hours your employees work. Tell me how efficiently they do their work, and how many employees you can get along without."

Mr. President, that is the way to reorganize an agency. That is the way it would be done in a man's business. But that is not the way it is done in the Government. In this instance reorganization is to be accomplished by centering under the Secretary of Commerce a large group of executive or administrative agencies, and, in addition, it is planned to place under him the Patent Office, which the Supreme Court of the United States has said is judicial and quasi-judicial.

So, Mr. President, all we are asking is that the President withdraw the plan. His staff could write in a specific exemption for the Patent Office. The President could then resubmit the plan, and Congress would approve with enthusiasm the redrafted plan.

The Chief Executive can choose to ignore suggestions from the legislative branch if he be so inclined; but I feel that the President should have indicated through his staff or through his friends on the Hill his reactions to our proposal. No such indications have come.

Let me cite a few of my many requests for withdrawal of the plan. On Monday, April 17, 1950, I issued a release from my office, stating, as follows:

> If the President and his advisers intend, however, the reorganization plan powers in good faith and with genuine limitations, then they can withdraw and resubmit plan No. 5, exempting the Patent Office by specific phraseology. The Patent Office has been independent since the founding of the Republic, and we must keep it so.

On the same day, speaking on the floor of the Senate, I stated:

> The President should recall his plan No. 5 and take from the scope of the plan, the portion which would place the Patent Office, with all its functions, in the hands of the Secretary of Commerce.

On April 27 I testified before the Senate Committee on Expenditures in the Executive Departments. The hearings have been printed, and I invite attention to page 7 on which I stated:

> I have urged, therefore, that the President withdraw Reorganization Plan No. 5, and that he resubmit it after writing in certain additional specific exemptions.

On May 10 I again spoke on this issue in connection with introducing into the RECORD a resolution of the Milwaukee Patent Law Association.

Point No. 3, which I think was very definitely made, is that the reorganization plan will not bring about any efficiency in the Patent Office, under the Secretary of Commerce. It will not bring about any saving. It was testified to by all the witnesses, on direct examination and cross-examination, that it would confuse the situation. What is more, Mr. President, unless the Secretary of Commerce were to do what he said he would do, transfer back the operation of the Patent Office to the Commissioner of Patents, it would create such a situation that only after a great deal of litigation could we know what the law is and what the rights of applicants would be on appeal.

The main point about which I am talking was testified to by men who know, for instance, former Senator Burton, who occupied in the Senate the chair to which I am now pointing, and who is now a Justice of the Supreme Court of the United States. Commenting on the situation in the Nation, with regard to those who want to destroy the Patent Office and its operations——

Mr. KILGORE. Mr. President, will the Senator yield?

Mr. WILEY. I yield.

Mr. KILGORE. Is it not a fact that the Civil Aeronautics Authority, commonly called the CAA, passes on and grants licenses to operate airlines? If so, is not that a judicial function, similar to that which is involved in passing on and granting patents? Both are under the Secretary of Commerce.

Mr. WILEY. Mr. President, I am sorry if I have to tell my distinguished friend from West Virginia that, in my humble opinion, if the fact is as he says it is, and I assume it is true, it does not in the slightest impede or interfere with the validity of the argument I am making that there are those in this country who want to destroy the patent system. I cited as my authority a justice of the Supreme Court. I furthermore cite as authority a great American, Lawrence C. Kingsland, who definitely and concretely laid down what would happen if such a reorganization were to take place. If there should be a Henry Wallace at the head of the Department of Commerce or someone of his political faith——

Mr. BENTON. Mr. President, will the Senator yield for a question?

Mr. WILEY. Yes.

Mr. BENTON. Should it not be brought out by the Senator that no matter who is Secretary of Commerce, whether it be Henry Wallace or anyone else, from any adverse decision of the Board of Appeals an appeal may be taken to the United States Court of Customs and Tax Appeals, which may review the case on its merits and, further, civil action may be brought against the Commissioner of Patents in the United States District Court for the District of Columbia, which court may consider the case de novo? In other words, should it not be brought out that patent attorneys can still appeal cases directly over the head of the Secretary of Commerce and take them right through to the courts?

Mr. WILEY. The Senator knows that that is only a half-truth. Once a patent is issued, no appeal can be taken. It is only when a patent is rejected that an appeal can be taken. If I were entitled to a patent and the Senator from Connecticut received it, he would have the patent. Why fiddle around with matters such as that, when we know what it all means? We know what would happen if there were a Communist running the Department of Commerce, or a man who thinks the American system is all rotten, and who would adopt some of the isms and philosophies from abroad. That is what Justice Burton was talking about. He wrote it in a decision.

I say to Senators who have made up their minds because they have been told to do so, and are going to vote——

Mr. KILGORE. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. KILGORE. I make the point of order that the Senator from Wisconsin is out of order.

The VICE PRESIDENT. Does the Senator claim that the Senator from Wisconsin has violated the rule?

Mr. KILGORE. When he said that the Senators who would vote for the plan would so because they were ordered to do so. If that is not a violation of the rule of the Senate, I do not know what is a violation.

The VICE PRESIDENT. The Chair has no authority to pass on that question.

Mr. SALTONSTALL. Mr. President, I move that the Senator from Wisconsin be allowed to proceed in order.

The VICE PRESIDENT. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to.

Mr. WILEY. Mr. President, I do not like those tactics. I repeat, and I know what I am talking about, for I have been in the Senate approximately 11 years—I do not know what happens when

the opposition gets together and are told what to do, but they do not have to follow it.

Mr. KILGORE. Mr. President, I make the point of order that the Senator is out of order.

The VICE PRESIDENT. The Senator from Wisconsin will please proceed in order.

Mr. WILEY. Does the Chair rule that the Senator from Wisconsin is out of order?

The VICE PRESIDENT. The Chair is not authorized to pass on that question.

Mr. WILEY. I remember the controversy which occurred a few days ago, and I think the distinguished Senator from West Virginia is not proceeding as he should with a fellow Senator. Such tactics are not appreciated either by occupants of the gallery or Senators on the floor.

Mr. President, I conclude with this thought, that Senators who vote to sustain the President will vote to disintegrate the patent system——

Mr. HUMPHREY. Mr. President——

Mr. WILEY. I have the floor, have I not?

Mr. HUMPHREY. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. HUMPHREY. I understand a point of order was made by the Senator from West Virginia. While I do not concur in this rather strange rule, unfortunately it has been applied with considerable force——

Mr. WILEY. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. WILEY. Can a Senator take me off the floor by simply starting an argument when I have a few minutes remaining?

The VICE PRESIDENT. The Senator does not have any time remaining.

Mr. O'CONOR. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement prepared by me for delivery on this subject, which I cannot deliver because of the limitation of time.

There being no objection, Mr. O'CONOR's statement was ordered to be printed in the RECORD, as follows:

STATEMENT IN SUPPORT OF REORGANIZATION PLAN NO. 5 OF 1950, IN OPPOSITION TO SENATE RESOLUTION 259, IN THE UNITED STATES SENATE, MAY 23, 1950

Mr. President, I propose to speak very briefly in opposition to the resolution of disapproval on plan No. 5, which deals with reorganizations in the Department of Commerce. In presenting my remarks I shall try not to duplicate the admirable statement in support of plan No. 5 which was made by the senior Senator from West Virginia shortly before we adjourned last evening. My remarks will present the high lights of five major arguments in support of plan No. 5.

1. My first point, Mr. President, deals with the broad and very significant objective underlying the first 13 of the reorganization plans which have been submitted to the Congress; 6 of them dealing with Cabinet departments and 7 with regulatory bodies. All too frequently in this debate the general doctrine underlying all of these plans has been obscured by details of minor significance.

The Hoover Commission gave primary support to the need for the general reorganization plan to bring about businesslike arrangements in the operations of the Government. Boiled down to simple terms the objective of that general plan is to give each department or agency head full authority, and not to scatter that authority among many subordinates. I submit that this simple rule is the soundest of doctrines for the smallest on up through the largest of operations .

Mr. President, this general reorganization idea is first proposed and developed in broad perspective in the four different recommendations that dominate Hoover Commission report No. 1 on general management. It is then developed specifically in subsequent Hoover Commission reports taking up the major departments one by one.

The point I want to emphasize is that plan No. 5 is a part of this comprehensive whole. It cannot be disapproved without affecting adversely other aspects of the general reorganization plan of which it is a part.

2. My second point, Mr. President, concerns the fact that during the hearings on plan No. 5, both the proponents and opponents agreed on its general merit, but the latter insisted that the Patent Office should be exempted from its scope.

On this score I shall content myself with reading the sound objections of the Budget Director to the effect that making this exception would likely lead to many more exceptions. The Budget Director stated that, exempting the Patent Office as indicated—"would have opened up a number of other questions with respect to agencies and functions equally deserving of consideration, and the total effect thereof would have tended to so clutter up the reorganization program with exemptions as to seriously detract from its sound basis and fundamental merit. The general rule with relation to exemptions was only to do so in connection with hearing examiners and with independent government corporations and similar agencies."

I agree with the Budget Director that this eminently sound rule should not be violated by the exemption which opponents of plan No. 5 would make with reference to the Patent Office.

3. Mr. President, last evening the senior Senator from Wisconsin emphasized and reemphasized the fear that plan No. 5 would endanger the long and successful operation of the Patent Office. At different points he referred to a fear that various "isms" might come in to control the Commerce Department, that another "Mr. Wallace" might be in control, and that this might well become an "entering wedge" for worse provisions.

Mr. President, during the hearings of our committee, the present Secretary of Commerce faced that issue frankly and squarely. Since his comments cover the points so tersely and fully, I shall quote a paragraph from his testimony.

"At the same time that I endorse Reorganization Plan No. 5, I am fully cognizant that fears may be engendered by such a plan. If the language is considered very literally, without recognition of the ever-present restraining factors in the operation of a large Federal agency, it might appear to some persons that any future Secretary would be entirely free to shift delegations of authorities among bureaus and officials without restraint. As history will support, there are a number of factors which act as checks and balances against arbitrary organizational changes. Primary among these is the fact that a large share of existing procedures and policies are set forth in laws. Congressional committees, including especially appropriations committees, are in a position to assert strong influence against unwise organizational modifications, if necessary by formal investigations. The President, or the Director of the Bureau of the Budget acting for him, is in a position to be informed rather intimately concerning current and prospective developments in the various agencies, and might well dissuade a Cabinet official from short-sighted or otherwise unsound organizational changes. In the light of the cumulative impact of these actual and potential pressures it is not realistic to anticipate dangerous actions in terms of arbitrary organizational shifts."

4. My fourth point, Mr. President, deals with the argument by the proponents of the plan that judicial and other aspects of the work of the Patent Office justify special treatment.

Here again, Mr. President, I quote from the forthright testimony of Secretary Sawyer, of the Department of Commerce, who points out that the Administrative Procedures Act—which reflected so great an effort by the legal profession to surround judicial and semi-judicial Government activities with special statutory protections—specifically exempted the Patent Office from the requirement of hearing examiners. The exemption was made—and note this carefully:

"At the recommendation of the Senate and House Committees on the Judiciary, which stated that whatever judgment the agency makes is effective only in a prima facie sense at most, and the party aggrieved is entitled to complete judicial retrial and decision. (See S. Rept. No. 752 and S. Doc. No. 1980, 79th Cong.)"

Furthermore, Mr. President, it must not be overlooked that the Department of Commerce has equally demanding activities which require the utmost skill and careful professional conduct. To cite but one example, Mr. President, I shall refer to the work of the Civil Aeronautics Administration. That Administration must exercise semijudicial responsibilities in certifying airmen, aircraft, and air carriers on questions involving terrific problems of life and death, not to mention huge damage to property.

5. Fifth and last among these comments, Mr. President, I want to deny categorically the comment made last evening by the senior Senator from Wisconsin that the record is "absolutely silent" as to any economy to be expected from plan No. 5. In support of that denial, listen to these quotes from the testimony of our present Secretary of Commerce at our recent hearings:

"Consideration is also being given to the possible desirability of using the authorities in this plan to effect certain administrative consolidations, particularly in the field. We may, for example, want to consolidate all payroll preparation for all bureaus of the Department in a few centers in the country. We might wish to use the authority also for consolidation of such functions as procurement and warehousing. The obvious objective of such measures would be increased economy and better administrative service.

"These examples just stated may serve to illustrate why I feel strongly that there are positive practical benefits to be gained from effectuating Reorganization Plan No. 5. Over and above these concrete possibilities of improvement, I feel that the approval of organization plans such as No. 5 will provide firm evidence that the entire Government takes seriously and believes wholeheartedly in the need for clear-cut legal responsibilities on the part of Cabinet officials. From this I anticipate certain intangible but, nevertheless, very real advantages in terms of greater internal cohesion within the departments."

Mr. President, I believe that these five points and other points which I have not had time to cover give overwhelming support to plan No. 5, authorizing reorganizations in the Commerce Department. By the same token, they should dictate adverse votes

on Senate Resolution 259, which is under consideration at this time.

Mr. WILEY. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Hendrickson	Magnuson
Benton	Hill	Malone
Bricker	Hoey	Martin
Bridges	Holland	Millikin
Butler	Humphrey	Mundt
Byrd	Hunt	Neely
Cain	Ives	O'Conor
Capehart	Jenner	O'Mahoney
Chapman	Johnson, Colo.	Robertson
Connally	Johnson, Tex.	Russell
Cordon	Kem	Saltonstall
Darby	Kilgore	Schoeppel
Donnell	Knowland	Smith, Maine
Douglas	Langer	Smith, N. J.
Dworshak	Leahy	Sparkman
Eastland	Lehman	Stennis
Ecton	Long	Taft
Ellender	Lucas	Taylor
Ferguson	McCarran	Thye
Flanders	McCarthy	Watkins
Fulbright	McClellan	Wherry
George	McFarland	Wiley
Gillette	McKellar	Williams
Hayden	McMahon	Withers

The VICE PRESIDENT. A quorum is present. The question is on the adoption or rejection of Senate Resolution 259, disapproving Reorganization Plan No. 5.

Mr. WILEY. I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. Those who favor the resolution of disapproval will vote "yea" as their names are called. Those who oppose it will vote "nay." The Secretary will call the roll.

The legislative clerk called the roll:

Mr. LUCAS. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Oklahoma [Mr. KERR], the Senator from Florida [Mr. PEPPER], the Senator from Pennsylvania [Mr. MYERS], and the Senator from Maryland [Mr. TYDINGS] are absent on public business.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from South Carolina [Mr. JOHNSTON], and the Senator from Oklahom [Mr. THOMAS] are absent by leave of the Senate.

The Senator from California [Mr. DOWNEY] and the Senator from North Carolina [Mr. GRAHAM] are absent because of illness.

The Senator from Delaware [Mr. FREAR] is absent by leave of the Senate on official business.

The Senator from Rhode Island [Mr. GREEN] is absent by leave of the Senate on official business as a member of a subcommittee of the Committee on Foreign Relations investigating the security program of the Department of State and its foreign establishments.

The Senator from South Carolina [Mr. MAYBANK] is absent by leave of the Senate because of a death in his family.

The Senator from Tennessee [Mr. KEFAUVER] and the Senator from Utah [Mr. THOMAS] are detained on official business.

The Senator from Montana [Mr. MURRAY] is absent because of a death in his family.

The Senator from Maryland [Mr. TYDINGS] is paired on this vote with the Senator from South Carolina [Mr. MAYBANK]. If present and voting, the Senator from Maryland would vote "yea", and the Senator from South Carolina would vote "nay".

If present and voting, the Senator from New Mexico [Mr. ANDERSON], the Senator from Rhode Island [Mr. GREEN], the Senator from Tennessee [Mr. KEFAUVER], the Senator from Pennsylvania [Mr. MYERS], and the Senator from Utah [Mr. THOMAS] would vote "nay".

Mr. SALTONSTALL. I announce that the Senator from South Dakota [Mr. GURNEY], the Senator from Michigan [Mr. VANDENBERG], and the Senator from North Dakota [Mr. YOUNG], are absent by leave of the Senate.

The Senator from Iowa [Mr. HICKENLOOPER] who is absent by leave of the Senate is paired with the Senator from Oregon [Mr. MORSE] who is also absent by leave of the Senate. If present and voting the Senator from Iowa would vote "yea" and the Senator from Oregon would vote "nay".

The Senator from Massachusetts [Mr. LODGE] is absent by leave of the Senate on official committee business.

The Senator from New Hampshire [Mr. TOBEY] is absent on official business. If present and voting the Senator from New Hampshire would vote "nay".

The Senator from Maine [Mr. BREWSTER] is detained on official business.

The yeas and nays resulted—yeas 29, nays 43, as follows:

YEAS—29

Bricker	Fulbright	Millikin
Bridges	George	Mundt
Butler	Hendrickson	Russell
Cain	Ives	Saltonstall
Capehart	Jenner	Schoeppel
Cordon	Kem	Smith, N. J.
Donnell	McCarran	Taft
Ecton	McKellar	Wherry
Ferguson	Malone	Wiley
Flanders	Martin	

NAYS—43

Aiken	Humphrey	Magnuson
Benton	Hunt	Neely
Byrd	Johnson, Colo.	O'Conor
Chapman	Johnson, Tex.	O'Mahoney
Connally	Kilgore	Robertson
Darby	Knowland	Smith, Maine
Douglas	Langer	Sparkman
Dworshak	Leahy	Stennis
Eastland	Lehman	Taylor
Ellender	Long	Thye
Gillette	Lucas	Watkins
Hayden	McCarthy	Williams
Hill	McClellan	Withers
Hoey	McFarland	
Holland	McMahon	

NOT VOTING—24

Anderson	Hickenlooper	Myers
Brewster	Johnston, S. C.	Pepper
Chavez	Kefauver	Thomas, Okla.
Downey	Kerr	Thomas, Utah
Frear	Lodge	Tobey
Graham	Maybank	Tydings
Green	Morse	Vandenberg
Gurney	Murray	Young

The PRESIDING OFFICER. On this question the yeas are 29, the nays 43. The resolution has not received the 49 votes necessary for adoption, and therefore fails.

MEETING OF COMMITTEE DURING SENATE SESSION

On request of Mr. LEHMAN, and by unanimous consent, a subcommittee of the Committee on Labor and Public Welfare was authorized to meet this afternoon, beginning at 1:30 p. m., during the session of the Senate.

REORGANIZATION PLAN NO. 17 OF 1950

The PRESIDING OFFICER. The next matter before the Senate is Senate Resolution 271, which the clerk will read.

The Chief Clerk read the resolution (S. Res. 271) as follows:

Resolved, That the Senate does not favor the Reorganization Plan No. 17 of 1950 transmitted to Congress by the President on March 13, 1950.

The PRESIDING OFFICER. On this resolution 1 hour of debate is allowed, one-half the time to be controlled by the Senator from Vermont [Mr. AIKEN], the other half to be controlled by the Senator from Maryland [Mr. O'CONOR].

Mr. AIKEN. Mr. President, I yield myself such time as I may require, which will not be very long.

The President has now submitted 25 reorganization plans to this session of the Congress. The Senate has killed 5 of them to date, and it looks as if 17 or 18 at least out of the 25 will be approved and become part of the general reform of the executive branch of our Government.

As to the plans which have been disapproved by the Senate, I do not believe the responsibility for the disapproval can all be laid upon the Senate, nor can it all be laid upon the executive branch of the Government. The responsibility, in my opinion, may well be divided.

However, it never was intended that the Congress should feel bound to approve any and every reorganization plan which the President might see fit to send to the Congress for approval. Nor is it to be expected that the President can submit an unlimited number of reorganization plans without making a mistake and having some of them wrong, and sending up some which very probably should be disapproved.

The plan under consideration now, Mr. President, provides for the transfer of two temporary programs of Government from the General Services Administration to the Housing and Home Finance Agency.

These two temporary functions which are to be transferred are, first, the disposal of the community facilities, such as lights, waterworks, sewers, and so forth, which were constructed as part of the war program, and the other function to be transferred from General Services to the Housing and Home Finance Agency is the Community Facilities Administration which has to deal with the advance planning of public works in communities, other than housing.

Last October the Congress extended, or renewed, rather, the life of this community planning and the advance programing for a period of 2 years. That work, as now authorized, expires on the 13th of October of next year. Therefore it has a little more than a year to run.

As to the disposal of the community facilities which were constructed as part of the war program, out of some 1,100 or 1,200 of these community facilities which were constructed, more than 900 of them have already been disposed of. I will say that so far as I can learn there has been no criticism whatever with respect to the handling of either of these programs in the General Services Ad-

ministration. Certainly the disposal of the surplus facilities in these various communities has been carried forward very efficiently along with the disposal of other surplus property which we found on our hands as a result of the war.

In my opinion the community facilities program for the advance planning has also been well handled. There are 388 employees in this work, and they have also been associated in other work in the General Services Administration as well as that pertaining to the facilities of the community planning.

The question is this: If this work has been done so well under the General Services Administration, why do we now receive a reorganization plan to transfer it from the agency where it has been so well handled to another agency where, unquestionably, it might be well handled also? Why is the transfer proposed at the present time? I do not question the ability of the employees of the Community Facilities Administration. I think they are undoubtedly capable persons. But why transfer these two programs at a time when they are both due to expire within the not-distant future? The answer to that question, Mr. President, will be found in a memorandum of the Bureau of the Budget under date of February 9, 1950, and rather than undertake to explain the reason for this transfer of the two temporary programs from General Services Administration to the Housing and Home Finance Agency, I wish to read a couple of paragraphs from the memorandum of the Bureau of the Budget dated February 9, 1950, as follows:

It should also be pointed out that the advance planning program is at present a temporary activity. Public Law 352 provides that on October 13, 1951, the authority to approve applications for advances will expire. The retention of the activity in GSA means that should the program not be renewed, the staff of the Community Facilities Service will have no place to go. The result will be an exacerbation—

I should like to know what the word means, but it is in the memorandum. It is evidently a new Government word. I continue to read—

of that sense of isolation and insecurity which the lack of identification with the central mission of GSA has already produced. Since there will be little opportunity to find other employment in GSA at the conclusion of the program, the staff of the Community Facilities Service will have little choice but to continue to seek and accept other more permanent assignments in or out of the Government. Thus, one of the major objectives of the transfer—the termination of the chronic uncertainty which has haunted CFS staff—will fail of realization of the present organizational arrangements are preserved.

It must also be expected that as long as the Community Facilities Service continues to exist as a part of GSA it will be driven to agitate for new public works or engineering assignments as a means of self-preservation. One of the gains to be derived from the liquidation of CFS will be the transfer of the personnel who have been working so hard to get new construction programs for FWA and GSA to agencies where they can apply their skills in behalf of a continuing and tangible major purpose. Failure to transfer advance planning functions will assure the continued existence of a focal point of agitation for the centralization of public-works activities.

Mr. CAIN. Mr. President, will the Senator yield for a question?

Mr. AIKEN. I yield for a short one.

Mr. CAIN. Will the Senator from Vermont please spell the word, the meaning of which he appeared to be uncertain about, in order that I may look it up in Webster's Dictionary?

Mr. AIKEN. The word is spelled: "e-x-a-c-e-r-b-a-t-i-o-n."

Mr. CAIN. "E-x-a——

Mr. AIKEN. "—c-e-r-b-a-t-i-o-n."

This excerpt from the memorandum of the Bureau of the Budget shows clearly that the purpose of the reorganization plan is to put the 388 employees of the Community Facilities Service under another branch of the Government, where they will be assured of continuance of their employment by the Government. I do not think that that reasoning alone is adequate for approving such a plan as this. Neither did the Director of the General Services Administration, because when he evidently was advised that such a reorganization plan was contemplated, he wrote a very vigorous letter of protest to the Hon. Frank Pace, Jr., Director of the Bureau of the Budget, under date of March 7, 1950. I read briefly from Mr. Larson's letter, which expressed his opinion as to the desirability of transferring these two temporary programs from the General Services Administration to the Housing and Home Finance Agency. I read from Mr. Larson's letter:

The transfers of the five functions under discussion—

There were three functions in other reorganization plans which were of lesser importance; only two in this plan. I continue to read:

The transfers of the five functions under discussion not only will effect no economies to the Government but, on the other hand, are very likely to produce added expense and to result in lack of coordination in governmental administration of the activities. The Community Facilities Service is a small organization in point of personnel, having as of February 1, 1950, only 388 employees, but it is a compact, well-integrated and thoroughly trained element of the General Services Administration, and the only organization in the Federal structure of which I know that is fully qualified to administer programs for the planning, construction, and financing of all types of State and local public works. Assignments of work under these five programs are distributed throughout the present personnel of the Community Facilities Service and of this administration, for the most part without exclusive allocation of employees to particular programs.

Since many of our employees who work on the five programs are also engaged in other activities of this administration—

I might interpolate that the employees of the Community Facilities Service also handle the disaster programs under which surplus and unused Government equipment and material is made available to disaster areas. I return to the letter—

transfer of such employees would impair the effective operation of the other programs, and would require additional personnel to be obtained by this administration. On the other hand, retention of the employees in their present positions would mean that the department or agency to which the functions were transferred would have to hire new employees and train them for performance of the transferred functions. It seems manifest that the adoption of either alternative would lead to increase in over-all expense to the Government.

In addition to the economies to be preserved and effected by the retention of the Alaska, Virgin Islands, water-pollution control, advance planning, and war public works functions in this administration, there is the further and more important point that the transfers would detract from efficiency in governmental operations.

There we have the opinion of the man who has been responsible for the work, that it would cost more, require more help, and detract from efficiency of Government operation.

Mr. President, I read the last paragraph of Mr. Larson's letter to the Director of the Bureau of the Budget:

The proposals made by the reorganization plans of 1950 for scattering of five integrated functions of the General Services Administration among three separate departments and agencies are, as this Administration views them, not only in direct conflict with recent statutory mandates, above noted, but would represent a step backward in the constant march to improve the administration and operations of the Government. A continuation of the present pattern of the General Services Administration will, we are confident, provide the Federal Government with the most efficient administration at the least cost of the functions heretofore assigned to that Administration.

So, Mr. President, I have tried to give the Senate the reasons for submitting this reorganization plan, the reasons which were very pointedly set forth by the Director of the General Services Administration, showing why these temporary programs of the Government should not be transferred.

I wish to conclude by saying that if we approve this plan, there will be no more efficiency in the Government. I do not say there will be less, but there will be no more.

There will be no more direct line of authority from the Community Facilities Service to the President than there is at the present time, but more personnel will be needed. In fact, the Director of the General Services Administration stated that if the 10 lawyers now connected with Community Facilities Service were transferred to the Housing and Home Finance Agency, although he would not have to hire 10 more lawyers, yet he would have to retain within his own organization 10 attorneys whom otherwise he would be able to let go. So the result would be the hiring of 10 additional lawyers, at an estimated cost of $150,000 a year.

Mr. President, I do not question the right of the President to send us this reorganization plan. I do not question his right to transfer these two temporary functions from one agency, where they have been successfully administered, to the Housing and Home Finance Agency, if he can obtain congressional approval to do so.

However, I say that when the entire objective of the Hoover Commission

81ST CONGRESS
2D SESSION

S. RES. 259

IN THE SENATE OF THE UNITED STATES

APRIL 17 (legislative day, MARCH 29), 1950

Mr. WILEY submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, without recommendation

MAY 23 (legislative day, MARCH 29), 1950

Considered and disagreed to

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 5 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 259

RESOLUTION

Disapproving Reorganization Plan Numbered 5 of 1950.

By Mr. WILEY

APRIL 17 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950
Reported without recommendation

MAY 23 (legislative day, MARCH 29), 1950
Considered and disagreed to

81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 510

REORGANIZATION PLAN NO. 6 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 6 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF LABOR

March 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 6 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of Labor. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 6 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Administrative Assistant Secretary of Labor. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 6 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949.

DEPARTMENT OF LABOR

Section 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Labor all functions of all other officers of the Department of Labor and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Labor.

Sec. 2. *Performance of functions of Secretary.*—The Secretary of Labor may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Labor of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

Sec. 3. *Administrative Assistant Secretary.*—There shall be in the Department of Labor an Administrative Assistant Secretary of Labor, who shall be appointed, with the approval of the President, by the Secretary of Labor under the classified civil service, who shall perform such duties as the Secretary of Labor shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

Sec. 4. *Incidental transfers.*—The Secretary of Labor may from time to time effect such transfers within the Department of Labor of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

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81ST CONGRESS
2D SESSION

H. RES. 522

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 1950

Mr. LUCAS submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 6 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

H. RES. 522

RESOLUTION

Rejecting Reorganization Plan Numbered 6 of 1950.

By Mr. LUCAS

MARCH 28, 1950
Referred to the Committee on Expenditures in the Executive Departments

81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Report No. 1907

REORGANIZATION PLAN NO. 6 OF 1950

April 6, 1950.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Dawson, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany H. Res. 522]

The Committee on Expenditures in the Executive Departments, to whom was referred the resolution (H. Res. 522), rejecting Reorganization Plan No. 6 of 1950, having considered the same, report unfavorably thereon without amendment and recommend that the resolution do not pass.

General Statement

The purpose of House Resolution 522 is to express disapproval of Reorganization Plan No. 6 of 1950, transmitted to the Congress by the President on the 13th day of March 1950, and the effect of the adoption of this resolution by the Congress will be to prevent such plan from coming into force and effect on May 12, 1950, mindful, however, that under section 6 (b) (2) of the Reorganization Act of 1949 (Public Law 109, 81st Cong.), that from the 60-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain.

The scope and the effect of the reorganization plan, in the absence of a disapproval by a House resolution, are set forth in the plan in the following words and figures:

Section 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Labor all functions of all other officers of the Department of Labor and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Labor.

Sec. 2. *Performance of functions of Secretary.*—The Secretary of Labor may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Labor of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

SEC. 3. *Administrative Assistant Secretary.*—There shall be in the Department of Labor an Administrative Assistant Secretary of Labor, who shall be appointed, with the approval of the President, by the Secretary of Labor under the classified civil service, who shall perform such duties as the Secretary of Labor shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 4. *Incidental transfers.*—The Secretary of Labor may from time to time effect such transfers within the Department of Labor of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

REORGANIZATION PLAN NO. 6 OF 1950—REORGANIZATIONS IN THE DEPARTMENT OF LABOR

SECTION-BY-SECTION ANALYSIS

Section 1.—This reorganization plan, in general, transfers:

(a) All functions of all other officers of the Department of Labor and all functions of all agencies and employees of such Department to the Secretary of Labor;

(b) However, this section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Labor.

Section 2. Performance of functions of Secretary (delegative powers).—This permits the Secretary of Labor to make provision, from time to time, as he deems appropriate, authorizing the performance by any other officer, or by any agency or employee, of the Department of Labor, of any function of the Secretary. These powers so delegable shall include any function transferred to the Secretary by the provisions of this reorganization plan.

Section 3. Administrative Assistant Secretary.—This contemplates appointment by the Secretary of Labor under the classified civil service of an Administrative Assistant Secretary of Labor. This appointment would be subject to the approval of the President. This new officer shall perform such duties as the Secretary of Labor shall prescribe. The rate of compensation fixed for this officer is that which has been found to prevail in respect of comparable officers in the executive branch of the Government.

Section 4. Incidental transfers.—The Secretary of Labor may, as he deems necessary in order to carry out the provisions of this reorganization plan, from time to time, effect such transfers within the Department of Labor of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Department.

ADDENDUM

The subject matter embodied in this bill has been of genuine interest to many responsible individuals, organizations, and the general public. Your committee has received many statements, telegrams, and letters, advancing various viewpoints, suggestions, and constructive observations, all of which have proved of immeasurable value. It is contemplated, that insofar as practicable and consistent with the committee policy and economy, these comments and filed statements will be incorporated in the record of our hearings. A detailed study of these transcripts, statements, and other pertinent data has been made by the members of the committee.

In addition, your committee was aided during their deliberations by the excellent presentations made by the many witnesses who appeared both in favor of and in opposition to Reorganization Plan No. 6. From the worth-while analytical nature of their statements, and the inestimable benefit to be derived from the interrogatories and colloquies that ensued during the queries by the members there was fully developed the many sound business organization principles underlying and inherent in this reorganization plan. Extensive hearings produced mutual exchanges of views and afforded opportunities for study and evaluation which proved beneficial in the consideration of this management phase of the Presidential program, and materially contributed to the deliberations of your committee.

This reorganization plan contains a pattern which is familiar to the Congress; it exhibits no features necessarily unique. Its principles have been universally adopted in industry in the interest of efficient management and administrative improvement. A survey of the pertinent recommendations of the Commission on Organization of the Executive Branch of the Government, together with a complete review of statements filed with the committee, when added to the opportunities presented for cross-examination of witnesses, have developed the necessary and basic information which guided your committee in reaching its conclusion to reject House Resolution 522.

Purpose of Reorganization Plan No. 6

The effect of Reorganization Plan No. 6 is, in general, to transfer to the Secretary of Labor all functions of all other officers of the Department of Labor. Certain restrictions on these powers are disclosed by reference to the Administrative Procedures Act. In this way independency of action on the part of hearing examiners is assured. Further the power of the Secretary to delegate to subordinate officers and agencies the performance of his functions where desirable is provided for. Moreover, records, property, personnel, unexpended balances, and other funds may be transferred within the Department of Labor, whenever it is deemed necessary by the Secretary of Labor for the purposes of carrying out the provisions of this reorganization plan.

This plan is one of a group of six similar plans recently submitted by the President, and proposing parallel departmental reorganizations for the Departments of Treasury, Justice, Interior, Agriculture, Commerce, and Labor.

This reorganization plan will not ascribe to the Department of Labor any more powers, authority, functions, or responsibilities than it now possesses. In the main, this legislation will centralize authority, responsibility, and accountability in the Secretary. This action, of course, carries with it as its necessary concomitant proper delegation of powers and duties on the part of the Secretary.

The Commission on Organization of the Executive Branch of the Government, after a detailed study, emphasized in its initial report the urgency for and reposing "full responsibility for the conduct" of a department in its secretary.

In the report on General Management and its accompanying Task Force Report on Departmental Management, the Commission on Organization of the Executive Branch of the Government, went to

some pains to propound the urgency in our Government for sound business management and unmistakable delineation of authority in "a clear line of authority reaching down through every step of the organization." The gist of their thesis tersely expressed is: If the superior is responsible and accountable then no subordinate should "have authority independent from that of his superior."

Reorganization Plan No. 6, thus it is seen, coincides with the recommendations the Commission on Organization indicated necessary for internal departmental management. The adoption of this plan by the Congress will result in unification of departmental organization which over a period of years will reward with economy of operation. Then also, the resultant centralization of responsibility and authority will effect rich returns through immediate improvement of efficiency and service.

Basis for Reorganization Plan No. 6

THE RECOMMENDATIONS ON GENERAL MANAGEMENT, COMMISSION ON ORGANIZATION OF THE EXECUTIVE BRANCH

To more thoroughly understand the well-developed, industry-tried principles upon which this reorganization plan is based, your committee recites the following from the Commission on Organization's Report on General Management:

Recommendation No. 13

Within each department, the subsidiary bureaus should also be grouped as nearly as possible according to major purposes.

* * * * * * *

This report also went on to state that of particular importance was:

Recommendation No. 14

Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.

* * * * * * *

Recognition for need of proper staff assistance found expression in:

Recommendation No. 16

Department heads must have adequate staff assistance if they are to achieve efficiency and economy in departmental operations.

* * * * * * *

Further, the Commission on Organization were insistent on pointing out:

Recommendation No. 18

Each department head should receive from the Congress administrative authority to organize his department and to place him in control of its administration.

* * * * * * *

In its Report on General Management (pp. 32–33) the Commission on Organization again observed:

The line of authority from departmental heads through subordinates is often abridged by independent authority granted to bureau or division heads, sometimes through congressional act or stipulations in appropriations. Department heads, in many instances, do not have authority commensurate with their responsibilities. Such bureau autonomy undermines the authority of both the President and the department head. There is therefore a lack of departmental integration in performing the department's major mission.

In addition to this, the Commission went on to state:

The department heads in most cases lack sufficient authority to assign within their departments such responsibility as would promote efficiency and economy.

Then the Commission on Organization in singling out the Department of Labor in its report on that activity had this to say:

We have urged in our first report that the foundation of good departmental administration is authority from the Congress for the Secretary to organize and control his Department. The granting by the Congress of independent authority to subordinates, of which there are several instances in the Department, should be eliminated.

The pattern which Reorganization Plan No. 6 proposes, and which is similar to the reorganization plans for the major departments enumerated in Reorganization Plans Nos. 1 to 5, has been drafted with the foregoing considerations in mind. The invaluable study and well-tempered approach manifested in the recommendations of the Commission on Organization impel the adoption of this legislation as a sensible and businesslike approach to basic departmental organization and sound management operations in the governmental service.

Task Force Report

SUMMARY OF DEPARTMENTAL MANAGEMENT, THE COMMISSION ON ORGANIZATION

As a citation in further support for Reorganization Plan No. 6, your committee sets out the following from the Task Force Report on Departmental Management:

Grant of authority

Recommendation No. 5

Department heads should have authority commensurate with the responsibility which they must exercise in the administrative structure of the executive branch.

It is axiomatic that the department head is called upon to assume responsibility for departmental policies and programs and for the over-all efficiency of his departmental operations. In effect, he is necessarily accountable to the President and the Congress for the conduct of his department. It follows that he must also possess the necessary correlative authority, if he is to administer his department in keeping with his responsibility.

Control over organization

The task force went on to state:

Recommendation No. 6

The department heads should have general discretion to determine the operating organization to perform the responsibilities vested in their respective departments.

In this manner the department head can make the occasional adjustments in administrative detail necessary for the proper effectuation of governmental programs. His authority to take action when he is convinced that such energy on his part will promote efficiency and economy in the performance of governmental service will

prove both a spur and a challenge. It would be well to note that the Secretaries of State and Agriculture, the Postmaster General, and the Administrator of Veterans' Affairs, already possess such discretion.

Departmental objectives

In the following recommendation the task force emphasized:

The goal of departmental management must be effective direction and supervision of an agency's work in the interest of a common purpose, under defined policies, through methods which insure the necessary work accomplishment in the most efficient possible manner.

They especially noted that—

The quality and the economy of all Government services depend finally upon the department head, and his departmental management.

Bureau authority

Recommendation No. 7

Departmental management, especially in the holding company type of department, is often undermined by bureau "autonomy."

In this connection the task force deplored the instances where the Congress has worked directly with bureaus rather than through department heads:

This has been particularly the case when certain types of new activities have been started with performance vested in some bureau created by law and lodged for some vague reason in a particular department. In these instances all of the authority of the substantive law lies with the bureau chief, not the department head. The authority of the department head for the particular activity depends upon his vague responsibility to supervise his department.

This is of even more compelling implication when the bureau is related by nature, as the Wage and Hour Division is to the Department of Labor, but cut adrift to float unsecured within the departmental structure.

Unity in structure

Recommendation No. 12

In order to fulfill its administrative purpose, a department needs well-defined elements of cohesion or unity in departmental structure.

This must obtain if a department is to effect the intention behind its creation. From this, perforce, will arise a single policy, a clear program, readily apparent responsibility, and stimulation of leadership and morale.

Practicability of This Transfer of Functions

After a study and evaluation of the functions which go to make up the Department of Labor, the Commission on Organization stressed the fact that there exists within the Department, grants of independent authority to subordinates. Among such, major interest can be directed to the status enjoyed by the Wage and Hour Administrator. The Fair Labor Standards Act vests this official with semi-independent authority and autonomy in the administration of his responsibilities and duties. On the other hand, the Secretary is charged with the administration of the child-labor provisions of the Fair Labor

Standards Act. However, for reasons of efficiency and identity of interests and service, the Secretary of Labor has delegated his authority in this respect to the Administrator.

The Wage and Hour Administrator, thus, by virtue of independent statutory authority of his own, and in part through delegation from the Secretary, administers the entire provisions of the Fair Labor Standards Act. For all practical purposes, it can be said, the Secretary of Labor is completely removed from the scene.

From a purely administrative or "housekeeping" viewpoint, the Wage and Hour Division is tied into the Department of Labor, since the latter handles its budgetary matters and makes provision for legal services. As an "orphan" it has been commended to the care of the Department, but its actions can be termed "a law unto itself." There has been one saving grace: the harmonious relationship the present Secretary and the Wage and Hour Administrator enjoy through their mutual collaboration has brought about a unified approach which has resulted in achieving the congressional intent in the administration of this act. Still, it should be borne in mind that this is cooperation grounded on personalities. There is no statutory basis for it; Reorganization Plan No. 6 would build and assure this foundation through legislative action.

Administrative Aspects Within the Department of Labor

Under certain statutes relating to labor standards, the Department of Labor is charged with definite administrative responsibilities. Any mention of these statutes would include the Fair Labor Standards Act, the Walsh-Healey Public Contracts Act, the Davis-Bacon Act, and parts of the National Housing Acts, the Federal Airport Act, together with the Hospital Survey and Construction Act. However, in the case of the Fair Labor Standards Act, while the Secretary is held responsible and accountable for all the provisions of the act, because it rests within the departmental framework he actually has full authority only with regard to its child-labor provisions. The Wage and Hour Administrator holds independent sway over the greater bulk of the act.

In the case of the other acts cited the Secretary does have full responsibility coupled with complete authority. Ironically enough, however, the public and the Congress, in viewing the Secretary of Labor as a department head, have come to regard him as personally responsible and accountable for the entire administration of legislation involving labor standards.

The greatest personal cooperation cannot single-handedly solve problems inherent in the division of authority between the Secretary of Labor and the Wage and Hour Administrator. In the instance where a Department inspector discovers violations of child labor and of wage-and-hour provisions and attempts to secure compliance with the act, two court actions are necessary where the employer refuses to comply—thus the division in authority unfolds, with its accompanying multiplicity of suits. The Secretary must sue for compliance in regard to the child-labor provisions; the Administrator, with respect to the wage-and-hour provisions. Reorganization Plan No. 6 would produce, in this case, one suit, and one party-plaintiff, the Secretary.

In the event of a subpena of an employee, or any of an employer's books or records, if the required information relates to compliance with the wage-and-hour provisions, the Administrator must issue the subpena; but if it relates to child-labor provisions, the Secretary must cause it to be issued. This is the technical cross-current deplored in the body of the law by both lawyer and layman. It can and does produce public harrassment and public questioning of the Fair Labor Standards Act.

Not only have the Administrator and Secretary coordinated their activities in the administration of the Fair Labor Standards Act, but have cooperated to mutual advantage in the administration of the Public Contracts Act previously alluded to. The Secretary has delegated his authority to administer the Walsh-Healey Public Contracts Act to the Wage and Hour Administrator. In this way the Wage and Hour Act and the Public Contracts Act are serviced by the same personnel. This has permitted dual inspections for possible violations and compliance under these acts. Needless to say, this move has been most productive in economy and efficiency. Yet the Administrator is the ultimate authority over wages and hours in one act, with the Secretary the ultimate arbiter in the other.

In this respect, the statement of Secretary of Labor Maurice J. Tobin, should be of interest:

> As Secretary of Labor, people come to me with problems which confront them arising out of laws administered by the Department. It is confusing to them, and unsatisfactory to me, when I have to tell them that if their problem concerns child labor under the Fair Labor Standards Act I can listen to what they have to say, investigate the facts, and make appropriate disposition of the matter; but if it involves wages or hours, I must refer them to the Wage and Hour Administrator. Or, suppose an inquiry comes from an employer, or a union representing employees, who are working on a Government contract covered by the Public Contracts Act and are also engaged in work covered by the wage-and-hour law. If the inquiry relates to the employer's wage practices, I can give definite answers so far as the public contract work goes, but I can't give binding advice on whether the requirements of the wage-and-hour law are being met. Only the Wage and Hour Administrator can do that. So the inquiring employer or union must see both the Administrator and myself. This kind of situation, too, makes for dissatisfaction and confusion * * *.

William R. McComb, Administrator, Wage and Hour and Public Contracts Division, United States Department of Labor, urged the adoption of this reorganization plan in these words:

> * * * I believe that the placement of full responsibility in the Secretary's office will result in considerable improvement in the administration of the act. The Secretary has indicated in his testimony and has assured me that he intends to delegate his responsibility to the Administrator with full responsibility to act, subject to the Secretary's general direction and control. I believe this policy of centralized responsibility, to be exercised under the direction and control of the Secretary, will result in an effective as well as impartial administration of the law.

Reorganization Plan No. 6 would terminate this lack of unified approach, engender a better degree of public confidence, and stimulate intradepartmental programing. Its conformity with the findings and recommendations of the Commission on Organization, which were founded on the basic tenets of sound management, assure these desired results.

Enforcement Procedures Under the Fair Labor Standards Act, as Amended

Section 4 (a) of the Fair Labor Standards Act, as amended, creates in the Department of Labor a Wage and Hour Division which shall be under the direction of an Administrator who is appointed by the President, with the advice and consent of the Senate. The Wage and Hour Division is an independent unit in the Department of Labor and is responsible for the administration of the wage-and-hour provisions of the act. However, the Secretary of Labor is responsible for the administratoin of the child-labor provisions of this act. In order to avoid duplication of inspection activities under the act, the Secretary has delegated certain of his investigative and enforcement functions relating to the child-labor provisions to the Administrator of the Wage and Hour Division, reserving to himself only such functions as require his personal attention, such as the issuance of orders and regulations, or which involve broad policy determinations.

The Fair Labor Standards Act does not authorize the Secretary or the Administrator, or any of their representatives, to conduct any proceedings involving the issuance of decisions or orders directing employers to comply with the act. If any differences arise between the Administrator or the Secretary, on the one hand, and an employer, on the other hand, with respect to either the interpretation of the act or the facts involved in a particular situation, the only recourse open to either the Administrator or to the Secretary is to appeal to a court to determine the issues.

In brief, the inspection work of the Wage and Hour Division and its enforcement work in the field are conducted through regional offices of the Division, each of which is supervised by a regional director. Inspections to determine whether there have been violations of any provisions of the act may be instituted by the regional directors either of their own volition or on the basis of complaints filed by other employers, employees, or any other interested parties. A staff of highly trained investigators is assigned to each regional office to make inspections of establishments in fixed geographical areas.

The primary purpose of every inspection is to determine whether the inspected establishment is operating in compliance with the act, and if not, to secure voluntary compliance. In general, an inspection involves an initial employer interview, a physical inspection of the plant, an examination of the employer's pertinent records, and interviews with a representative number of employees. After the investigator has obtained all the facts necessary to determine the extent of the employer's compliance or noncompliance with the act, the investigator requests a second interview with the employer, or his designated representative, for the purpose of informing him of the provisions of the act which, in the opinion of the Division, apply to his employees, the nature and extent of his violations, if any, and the things he must do to come into compliance. In appropriate cases, the investigator may request the employer to make a statement, or to advise the regional office, concerning his intention in the payment of back wages and as to future compliance. If the inspection discloses substantial violations of the act, the regional office, after a review of the investigator's

findings and conclusions, sends a letter of notification to the employer summarizing and confirming, or modifying where necessary, what the investigator had already discussed with the employer. If the employer has not already stated his position, the regional office will ask the employer to state whether or not he will bring operations into compliance with the act, and whether he is willing to make payment of the unpaid minimum wages or unpaid overtime compensation under the supervision of the Division.

If the employer disputes the findings and conclusions of the Division, or if he refuses to come into voluntary compliance, or if the inspection discloses facts which apparently require more forceful action than the mere assurance of the employer that he will comply, the only avenue open to the Administrator and to the Secretary is to refer the case to the Office of the Solicitor, Department of Labor, for either civil action. If the case merits criminal prosecution, it is referred to the Department of Justice for appropriate action.

The machinery thus provided for the enforcement of the Fair Labor Standards Act differs materially from statutes creating such agencies as the National Labor Relations Board, the Securities and Exchange Commission, the Federal Trade Commission, and others. Such agencies are empowered to make the initial findings of facts and conclusions of law and to issue appropriate orders to carry out their determinations. In like manner, the Walsh-Healey Public Contracts Act authorizes the Secretary of Labor to make such decisions, based upon findings of fact, as are deemed to be necessary to enforce the provisions of that act. However, the issuance of binding decisions for enforcement of issues arising under the Fair Labor Standards Act is left to the Federal courts. The Wage and Hour Administrator has no quasi-judicial functions in this regard.

As a further aid to enforcing the act, the act authorizes the Administrator, upon the request of employees, to institute suits on their behalf, under certain specified conditions, to recover the actual amount of wages which the employer has illegally withheld from them. Section 16 (b) of the act authorizes employees to institute suits to recover the amount of back wages due them, plus an equal amount of liquidated damages, court costs, and reasonable attorney's fees. The right of employees to sue under section 16 (b) is independent of the injunction proceedings that the Division may take to enforce the act.

In the light of the foregoing, it is crystal clear that the Fair Labor Standards Act confers no quasi-judicial powers on the Wage and Hour Administrator. No such powers accrue to the Administrator under this statute. A thorough conception of the workings of the Department discloses that the only quasi-judicial powers of interest here repose in the Secretary under the Walsh-Healey Public Contracts Act.

Previous Legislative Developments in This Field

The Fair Labor Standards Act was, in its inception, an excursion into uncharted quarters, and various were the proposals for optimum administration. The original enactment saw some favor it as an independent agency, while others, just as resolutely, declared themselves for vesting its powers in the Secretary of Labor. A compromise emerged from the conference on the bill, and the controlling

legislation, while calling for an independent Administrator, housed the administration of the law as a function within the structure of the Department of Labor. This law is no longer an experiment. It has reached maturity, proved its mettle, and demonstrated the value of its substantive provisions on behalf of American wage earners.

Although Reorganization Plan No. 2 of 1947 did contain a like proposal to transfer the functions of the Wage and Hour Administrator to the Secretary of Labor, it cannot be said that Congress rejected that plan for that reason. The major controversial issue in that reorganization plan centered around the proposal it also carried for relocation of the United States Employment Service. It is assured that the plan was rejected for the presence of the latter, and not because of the proposed transfer involving wage-and-hour legislation.

In this regard Congress has since seen fit to approve the transfer of the United States Employment Service, as a part of the Bureau of Employment Security, to the Department of Labor. This was the effect of Reorganization Plan No. 2 of 1949. In addition, since the reorganization efforts of 1947, the Congress has been the recipient of the benefits flowing from the penetrative analyses and studies of the Commission on Organization of the Executive Branch of the Government.

In considering the 1949 amendments to the Fair Labor Standards Act, Congress did, in fact, leave the administration of the act unchanged. Yet, that action could not be considered a refusal to concern itself with reorganization for better management. It can be said that reorganization was considered. The solution regarded as appropriate was the reorganization plan. The Senate Committee on Labor and Public Welfare remove any doubt on that score in its report on the 1949 amendments to the organic act, when it says—

> with respect to the proposal to consolidate administration of the Fair Labor Standards Act under the Secretary of Labor this can as well be accomplished through the exercise by the President of powers conferred upon him by the Reorganization Act of 1949, in the light of the over-all reorganization of Government labor functions envisaged by the Commission on Organization of the Executive Branch of the Government, as in special legislation.

Reorganization Plan No. 6. is just such a reorganization plan as the foregoing suggested. It is the most effective and appropriate way to handle this functional and administrative coordination of the Fair Labor Standards Act under the Secretary of Labor.

Other Clarifying Effects of This Reorganization Plan

There are other departmental functions for which the Secretary of Labor is responsible, but over which he does not now possess unequivocal direct authority. Among others, these functions include:

(*a*) Collecting, collating, reporting and publishing employment statistics by the Bureau of Labor Statistics under act of July 7, 1930 (29 U. S. C., sec. 2).

(*b*) Collecting reports through special agents of the Commissioner of Labor Statistics (29 U. S. C., sec. 2a).

(*c*) Bureau of Labor Statistics studies of productivity and labor costs in industries (29 U. S. C., sec. 2b).

(*d*) Maintenance by the Bureau of Labor Statistics of a file of collective-bargaining agreements under section 211 of Labor Management Relations Act, 1947 (29 U. S. C., sec. 181).

(*e*) Functions of the Women's Bureau with respect to the formulating of standards and policies for promotion of welfare of women and making of investigations on welfare of women in industry (29 U. S. C., sec. 13).

Reorganization Plan No. 6 of 1950 will make it clear that the head of the Department of Labor has full authority, as well as responsibility, to organize and control his Department, in respect to these functions.

Conclusions

The President, through his Cabinet, is supplied with various viewpoints and specialized knowledge. It is the function of the President to appraise, evaluate, and balance these sources of information for the common good of the Nation. This must necessarily be kept in mind when reading the organic act creating the Department of Labor. Although the Department of Labor was instituted "to foster and promote" the interests of labor, the Secretary is obliged by virtue of his oath of office to administer the law in a fair and impartial manner. It is the duty of the Secretary to foster and promote the interests of all wage earners in the light of their rights and the rights of others under the law. It is the function of the President to coordinate the interests of labor with the other segments of our national economy.

Reorganization Plan No. 6, provides that, except for functions vested in hearing examiners by the Administrative Procedure Act, all functions vested in any other officer, agency, or employee of the Department of Labor are transferred to the Secretary of Labor. The Secretary is given delegative powers, and provision is included for improved internal administration by regrouping powers vested in the Secretary.

This reorganization plan conforms in particularity to the pattern of organization recommended for each of the executive departments by the Commission on Organization of the Executive Branch of the Government. The structural and organizational framework is on all fours with the design proposed by the President for the Post Office Department and the State Department and approved by the Eighty-first Congress. Finally, it is identical and in no respect different from the parallel plans presently proposed by the President for the Treasury, Justice, Interior, Agriculture, and Commerce Departments, as shown in Reorganization Plans No. 1 through No. 5.

The Department of Labor will not hereby gain any more powers, authority, functions, or responsibilities than are already reposing in it. It will have only the force of centralizing authority in the Secretary, since he is already the repository of its correlatives, responsibility and accountability.

In the conduct of the Department of Labor, an anomalous situation has been engendered in that there have been grants of independent authority to subordinate officials within the departmental structure. For their actions the Congress and the public look to the Secretary for responsibility and accountability, but over which the Secretary has no authority. This is the exact case of the Wage and Hour Administrator. He administers the wage-and-hour provisions of the Fair Labor Standards Act, while the Secretary of Labor is charged with the administration of the child-labor provisions of the same act. Although

actually within the Labor Department, the Wage and Hour Administrator is virtually unfettered, since the Secretary has no authority over his actions. As a practical matter, the Secretary has delegated his child-labor-provision responsibilities under the act to the Administrator. The harmony and cooperation that has thus obtained, however, is based on personal grounds, rather than on the requisite legislative basis that should obtain.

A cardinal feature of this reorganization plan, and the central point to bear in mind is that the Wage and Hour Administrator has no quasi-judicial duties. He acts in no way similar to any agency which would require a separation of prosecutive and judicial functions. His determinations are not final; he is in compliance cases a plaintiff in Federal court seeking appropriate enforcement for a violation of law. Thus the vesting of his powers in the Secretary, as contemplated by Reorganization Plan No. 6, does not carry with it the implication that the Secretary would receive thereby quasi-judicial powers affecting wage-and-hour matters.

In the light of the recommendations of the Commission on Organization which sanction and urge this unified pattern for sound departmental and organizational management, the more facile achievement of policy and program, Reorganization Plan No. 6 commends itself for its opportunity for improved efficiency of internal operation, with the inevitable economy attributable thereto. All this will be bolstered by a renewed surge of public confidence in executive departments administered by clearly delineated lines of authority and responsibility.

This plan points the way for more facile achievement of policy and program, and measures up to the findings and recommendations of the Commission on Organization in the field of departmental management.

Executive departments of similar pattern can have an effect in efficiency and economy upon the entire Federal Government. Freer exchanges of information, speedier adoption of successful management program, together with ease of audit by the General Accounting Office, are but a few of the features that can stem from this reorganization program. Further, Reorganization Plan No. 6 commends itself for the opportunity it presents for improved efficiency of internal operation, and the inevitable economy that must thereby result. On every side this can only serve to increase public confidence in executive departments administered by clearly defined lines of authority and responsibility.

MINORITY VIEWS

PAST ATTEMPTS TO PLACE THE ADMINISTRATION OF THE WAGE AND HOUR LAW IN THE SECRETARY OF LABOR

The Congress has three times rejected the President's proposal, as outlined in Reorganization Plan No. 6, which would lodge administrative and enforcement powers under the Fair Labor Standards Act of 1938 (the Federal wage-and-hour law) in the Secretary of Labor.

1. The first attempt was made at the time of the consideration by Congress of the original Fair Labor Standards Act in 1937 and 1938. The House at that time passed a bill vesting the administrative power in the Secretary of Labor (see H. Rept. 2182, April 21, 1938, 75th Cong., 3d sess., and 83 Congressional Record 7450, May 24, 1938), while the Senate passed a bill placing the administrative authority in a five-man board (see Rept. 884, July 6, 1937, 75th Cong., 1st sess., and 81 Congressional Record 7957, July 31, 1937). The conference committee, in reconciling the differences between the Senate and House bills, declined to place the administrative power in the Secretary of Labor and instead set up an independent Administrator of the Wage and Hour Division in the Department of Labor (see sec. 4 (a) of the Fair Labor Standards Act of 1938; see also 83 Congressional Record 9178, 9246, 9255, 9266, 9267, June 14, 1938).

2. Again, on May 1, 1947, the President, pursuant to the Reorganization Act of 1945, submitted to the Congress a reorganization plan, one part of which would have transferred to the Secretary of Labor the functions vested in the Administrator by the Fair Labor Standards Act of 1938. This proposal was rejected by the House on June 10, 1947 (93 Congressional Record 6740; see also H. Rept. No. 499, June 2, 1947, 80th Cong., 1st sess.), for the following reasons:

(*a*) Such transfer was contrary to the plain intention of Congress when it passed the Fair Labor Standards Act of 1938.

(*b*) The transfer would place responsibility for administering and enforcing a regulatory statute affecting employers and employees in the hands of one whose basic duty it is to foster and promote the interests of only one of the regulated groups—employees.

(*c*) The transfer was contrary to the public interest, in that it would increase the work load and responsibility of a Cabinet officer by placing under his direct control administrative and enforcement duties, which experience has shown require the full-time services of a responsible and trained officer of the Government.

(*d*) The transfer would place in the Secretary of Labor responsibilities so conflicting that he would be unable to perform them in accordance with the intent and mandate of Congress.

The Senate also rejected this reorganization plan of 1947 (93 Congressional Record 7874, June 30, 1947). Two principal reasons were expressed in the Senate for such rejection (93 Congressional Record 7860–7861, June 30, 1947). The first was that the transfer

would vest in a department, required by law to be a fiduciary for labor, functions affecting both management and labor. The second reason advanced against the transfer was that it would create a condition of uncertainty as to whether there would be any officer on whose rulings with respect to the Fair Labor Standards Act an employer might rely under section 10 of the Portal-to-Portal Act. Under that section an employer may not be held liable for his failure to pay minimum wages or overtime compensation under the Fair Labor Standards Act, if his failure was in reliance on rulings, orders, regulations, etc., of the "Administrator of the Wage and Hour Division of the Department of Labor." If the administrative authority under the law is taken from the Administrator and placed in the Secretary of Labor, there would be grave uncertainty as to whether an employer could thereafter rely upon the rulings of either the Administrator or the Secretary of Labor.

3. At the last session of Congress, the Congress passed and on October 26, 1949, the President approved amendments of the Federal wage-and-hour law. A major problem raised under the many different proposals to amend the act was whether the administrative and enforcement authority thereunder should be taken from the Administrator and placed in the Secretary of Labor.

The Congress answered this question with an emphatic negative (see Congressional Record, August 9, 1949, p. 11347; Congressional Record, August 10, 1949, pp. 11450–11451; Congressional Record, August 11, 1949, pp. 11511–11512; S. Rept. No. 640, July 8, 1949, 81st Cong., 1st sess., pp. 2, 6; Congressional Record, August 31, 1949, p. 12811), despite the fact that the House Committee on Education and Labor had favorably reported a bill which, among other things, would have effected this transfer (see H. Rept. 267, March 16, 1949, 81st Cong., 1st sess., p. 14).

Notwithstanding these facts, the main object of Reorganization Plan No. 6 of 1950 is to accomplish through indirection that which only 6 months ago the Congress said should not be done; namely, to transfer the administrative powers under the wage-and-hour law to the Secretary of Labor.

THE OFFICE OF THE SECRETARY OF THE DEPARTMENT OF LABOR IS NOT AN APPROPRIATE ONE TO ADMINISTER THE DUTIES AND FUNCTIONS NOW PERFORMED BY THE WAGE-AND-HOUR ADMINISTRATOR

The organic act establishing the Department of Labor, the philosophy which guides the policy-making officials of that Department, and the organization through which it administers the laws which are entrusted to it all show that the office of Secretary of Labor is not an appropriate one to administer the wage-and-hour law.

The organic act of 1913 establishing the Department of Labor states the purpose of the Department is—

> to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment.

The Department of Labor is staffed with Assistant Secretaries recruited from organized labor. The Assistant Secretaries at present are: John Gibson, former CIO director for the State of Michigan; Ralph Wright, former official of the International Typographical

Union (AFL); and Philip Kaiser, who heads the Office of International Labor Affairs. The Department of Labor takes the position that it is spokesman for labor in the President's official family, and the loyalties of the Department's staff are keyed to labor's interests.

A department which by law, by organization, and by philosophy is set up to advocate labor's interests cannot administer impartially and fairly a great statute affecting the rights and obligations of both employers and employees. The most essential possession of any governmental body charged with enforcing the law is its ability to inspire public confidence in its impartiality and freedom from bias. Obviously, the Secretary of Labor and the Department which he heads fall short of meeting this test for the fundamental reason that they are required to play a partisan role in labor-management controversies. The transfer of the functions of the Wage and Hour Administrator to the Secretary of the Department would place in the Secretary of Labor responsibilities so conflicting that he would be unable to perform them with the even-handed justice intended by Congress.

THE DUTIES AND FUNCTIONS PERFORMED BY THE WAGE AND HOUR ADMINISTRATOR REQUIRE IMPARTIAL ADMINISTRATION

The exercise of the duties and functions of the Administrator determines to a large extent which employers are subject to the requirements of the act and which employees are entitled to its minimum-wage and maximum-hour benefits. This can be shown by a series of examples.

(*a*) Under the law, an exemption from minimum wages and overtime is granted to executive, administrative, professional, local retailing capacity employees and also to outside salesmen. The exemptions for these employees, however, are not spelled out in the statute. The Administrator of the law is given the final responsibility to define these terms from time to time and thereby fix their scope. In carrying out this responsibility he must decide between the conflicting contentions of labor and management; i. e., whether the terms should be defined narrowly or broadly.

(*b*) Under the law, employees engaged in processing agricultural commodities are exempt if they perform their work within the "area of production." The Administrator is required to define the term "area of production" in order to determine the extent of the exemption. Here again he is required to accommodate his definition to the competing claims of labor and management.

(*c*) Under the law, an overtime exemption is granted to employees working in seasonal industries. But the exemption is not available to any employer until the Administrator finds that his industry is seasonal in nature.

(*d*) In determining employees' regular rates of pay for purposes of paying overtime, an employer need not include amounts contributed by him to profit-sharing plans. Such plans, however, must meet standards set up by the Administrator.

(*e*) Under the law, learners, apprentices, messengers, and handicapped workers may be employed at less than 75 cents an hour. This is permitted, however, only under terms and conditions prescribed by the Administrator. To provide employment opportunities

for these types of workers, it is frequently necessary for employers to employ them at subminimum rates. Labor unions, however, by and large, oppose any such employment.

(*f*) One of the most important functions the Administrator performs is to issue interpretations concerning the coverage of employees and employers under the law. These interpretations are his determinations as to which employees are engaged in interstate commerce or the production of goods for interstate commerce and which employees come within the provisions of various exemptions, such as those granted to agricultural labor and retail and service establishments. The courts have held that these interpretations are entitled to great weight and thus they have gone a long way in establishing the extent of the application of the minimum-wage and overtime provisions to employees throughout the country.

The Administrator of the Wage and Hour Division also has the responsibility of instituting litigation against employers to enforce the law. Such litigation may be either in the form of an injunction suit or in the form of a suit on behalf of employees to collect unpaid back wages or overtime. The Administrator, in other words, exercises not only the legislative function of deciding in many instances the extent to which employers and employees come under the law, but also the prosecutorial function of instituting proceedings against employers to enforce his rules and interpretations against those charged with violations of the law. He also collects unpaid wages and overtime compensation from employers as a part of his enforcement activities.

As the legislative charter of the Department requires the Secretary to act as a special pleader for labor and to promote its special welfare, the Secretary and his assistants are not appropriate officers to resolve the conflicting interests of labor and management as is required by the wage-and-hour law. To place administration of the law in the hands of such officers would be to require those who by law are required to "foster, promote, and develop the welfare of wage earners" to render an impartial decision, a duty impossible of performance. Such a situation would tend to destroy the confidence of the public in their Government.

THE ATTITUDE OF THE HOOVER COMMISSION

The recommendations of the Hoover Commission were based upon investigations of so-called task forces and expert consultants. Mr. Herbert Hoover, Chairman of the Commission, in submitting the report on the Department of Labor to the Congress, also submitted a typescript memorandum on the Department of Labor, which was prepared by George W. Taylor, professor of labor relations, University of Pennsylvania, and former Chairman of the National War Labor Board. Professor Taylor is widely regarded by labor unions as a warm friend of organized labor. The text of Mr. Hoover's letter of transmittal to the Congress, dated March 11, 1949, is as follows:

The Honorable the PRESIDENT OF THE SENATE.
The Honorable the SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEAR SIRS: In accordance with Public Law 162, Eightieth Congress, approved July 7, 1947, the Commission on Organization of the Executive Branch of the Government submits herewith its report on the Department of Labor, and

separately, in typescript, a memorandum on the Department by George W. Taylor, professor of labor relations, University of Pennsylvania, and former Chairman, National War Labor Board.

The Commission wishes to express its appreciation to Professor Taylor, the members of the task forces listed in the acknowledgment, and to the officials of departments and agencies concerned for their cooperation.

Respectfully,

HERBERT HOOVER.

Professor Taylor in his memorandum set forth the basic consideration which should govern in any reorganization of the Department of Labor. He said in part:

NATIONAL POLICY AS RESPECTS THE RELATION BETWEEN THE DEPARTMENT OF LABOR AND LABOR UNIONS

Previous mention has been made of the relation between labor unions and the Department of Labor as one of the three fundamental areas that need investigation, and it was then suggested that the tripartite task force might best be able to operate in this area. It would appear that such a task force might be assigned the responsibility for considering just what role the Department of Labor should play. Any determination in this regard would dictate, in no small measure, the functions that should be assigned to the Department of Labor.

The legislation of March 3, 1913, which created a separate Department of Labor, also stated its purposes, in general terms, as follows:

"* * * to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment."

It is of the utmost importance to recognize that these purposes were expressed at a time when wage earners were largely unorganized. No Wagner Act was on the statute books. Collective bargaining had not received legislative approval as the sound method for determining hours, wages, and working conditions.

The generally stated purposes of the Department of Labor are substantially the same as the general purposes of most labor unions. Since most employees look to the unions rather than to the Department of Labor for improvement of their conditions of employment, the Department and the labor unions may be expected to cooperate closely in seeking to achieve the stated purposes of labor unions.

In line with such reasoning, the Department of Labor has been widely looked upon as the advocate of organized labor in the Government—except perhaps by organized labor. Experience has shown the need for an avenue of consultation between the Government and the labor unions—and even through which union participation in many governmental matters may be secured. This raises the question: Should the Department of Labor be developed primarily as the representative of organized labor in the Government? If so, then the governmental functions assignable to administration by the Department of Labor would be the ones not incompatible with such a position.

On the basis of experience it would appear that the Department of Labor cannot be a vital agency as long as it is expected, in various quarters, to be an advocate of labor interests in conformance with its legislative charter, and at the same time an impartial administrator of the national labor policy in the public interest. It follows that, if the advocacy function is emphasized, then consideration might well be given to the creation of one separate department or agency, instead of the large number of independent agencies which now obtain, to administer those parts of the national labor policy in which conflicting interests must be appraised in the light of public necessities.

No recommendation on this fundamental question at this time would constitute a resolution of the difficulty. Urgently needed, however, is some procedure or mechanism for grappling with it. In my judgment, the tripartite task force previously discussed might well be selected as the agency for examining this question.

Then, in his conclusions and as part of his recommendations, Professor Taylor stated:

1. Any recommendation of the Commission respecting organization of the Department of Labor should be made only after extensive consultation with representatives of organized labor and of management as well as with the Secretary of Labor.

2. There has been as yet no thorough investigation of the Department of Labor comparable to that made of other executive departments. This seems to indicate that the more or less generally used investigating procedures cannot be applied to the Labor Department.

3. Since substantive recommendations should not be made in the absence of careful investigation, it is suggested:

(*a*) That substantive recommendations should not now be made, but

(*b*) That recommendations should be limited to procedures to be followed in investigating the Department of Labor problem and in composing differences respecting the activities of that Department.

4. Inasmuch as the problem to be dealt with is complex, consideration might also be given to proposing an agenda for the guidance of any investigating agency that might be set up.

Thus, as Professor Taylor pointed out, the Department of Labor cannot serve both as an advocate of labor interests in conformance with its legislative charter and as an impartial administrator of national labor policy in the public interest.

The Hoover Commission, in its report on the general management of the executive branch, stated in recommendation No. 14:

> Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.

In its report on the Labor Department, the Hoover Commission stated:

> We have urged in our first report that the foundation of good departmental administration is authority from the Congress for the Secretary to organize and control his Department. The granting by the Congress of independent authority to subordinates, of which there are several instances in the Department, should be eliminated.

It will thus be seen that the Hoover Commission recommended that no subordinate bureau in a department should exercise independent authority. The Administrator, however, is not in any sense a subordinate officer of the Secretary but rather is a wholly independent officer, as the Fair Labor Standards Act so plainly shows and the decisions of the courts verify.

The Wage and Hour Division was not established by Congress as an integral and subordinate unit of the Department of Labor as were other bureaus which were set up in that Department or in other departments.

On the contrary, the Wage and Hour Division was created as a completely independent agency, with final authority for the administration of the law vested in an Administrator, who makes his own annual report to Congress (sec. 4 (d), Fair Labor Standards Act). In other words, the Division was placed in the Department of Labor only in name but not as a subordinate unit thereof. Unfortunately, the report on the Department of Labor shows that the Commission was unaware of these facts, since it refers to the Wage and Hour Division as a functional unit of the Department of Labor.

It will also be noted that the Commission's report on the Department of Labor was submitted to the Congress on March 11, 1949. The Congress thereafter passed the fair labor standards amendments of 1949, and plainly expressed its desire to keep the administrative powers lodged in an independent administrator.

UNSOUND ARGUMENTS IN FAVOR OF REORGANIZATION PLAN NO. 6

1. It has been urged that it is the policy of the Hoover Commission that the various functions and duties of independent agencies and officers should be subordinated to the authority of a Cabinet officer who is answerable to and under the immediate direction of the President. It is argued that this will assist the President in the exercise of his manifold duties of directing and supervising the executive establishment of the Government. The Hoover Commission recommendations, however, recognize that consistent with good government, this cannot be done in all cases. The Commission has not recommended that the National Labor Relations Board, the Securities and Exchange Commission, the Interstate Commerce Commission, the Federal Trade Commission, the Federal Power Commission, the Federal Communications Commission, and many other agencies be subordinate to any Cabinet officer. All these agencies, like the Wage and Hour Division, exercise powers affecting the conflicting interests of different economic groups. If good administration requires that these agencies remain separate and independent, there is as much reason to continue the independent status of the Wage and Hour Division.

2. It has been argued that the powers of administration under the Walsh-Healey Act, which imposes wage-and-hour requirements upon Government supply contractors, are in the Secretary of Labor and therefore the administrative powers under the Fair Labor Standards Act should also be placed in the Secretary. The coverage of the two statutes, however, is completely dissimilar. The application of the Walsh-Healey Act to any employer is optional with him, since the act does not apply unless he elects to enter into a contract with the Government to furnish it supplies and under the conditions which it imposes. Under those circumstances, even if the act is administered by an agency which is a partisan for labor, the employer has no basis for complaint.

The application of the Fair Labor Standards Act, however, is in no sense optional with the employer, as the law automatically applies to him if he is engaged in interstate commerce or in the production of goods for interstate commerce and is not specifically exempt. He is entitled, therefore, as a matter of simple fairness, to have the law administered by an unbiased and impartial agency.

CONCLUSION

The administrative and enforcement powers under the Fair Labor Standards Act should remain where the Congress has three times determined they should be. If such powers are to be transferred to the Secretary of Labor, the organic act of the Department should be revised to make the Department a guardian of the public interest rather than solely that of labor.

It is the duty of the Congress to provide good government for the American people. This cannot be done by placing in the hands of a biased agency, an agency created and charged by law with the duty of promoting the interests of one group, authority which should be exercised by unprejudiced and dispassionate administrators.

The need for economy and efficiency in the executive departments is not questioned. However, the sole purpose in the formation of our

Government was not the promotion of either economy or efficiency, or even a combination of the two. The primary purpose in the minds of those who fathered our Government and enunciated the principles upon which it was to proceed was the preservation of the liberty of the citizen.

Mr. Justice Brandeis recognized that fact when he said:

> The doctrine of the separation of powers was adopted by the Convention of 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction but by means of the inevitable friction incident to the distribution of the governmental powers among three departments to save the people from autocracy.

The basic thought behind the Hoover Commission recommendations was the promotion of economy and efficiency. Reorganization Plan No. 6 does neither. Nor can an argument for the adoption be based upon the contention advanced in favor of adoption of Reorganization Plan No. 12, that it would tend to eliminate controversy between the Administrator and the Secretary of Labor, for in this situation there is no friction.

Frederick J. Lawton, Director of the Bureau of the Budget, when testifying before the committee, admitted that he knew of no conflict in policy between the Administrator and the Secretary of Labor. He conceded that the adoption of the plan would not give economy or increased efficiency.

In the hearings it was admitted and frankly stated that, if the plan was adopted, the Secretary of Labor would immediately redelegate to the same individuals the authority now exercised by them.

About the only reason Mr. Lawton could advance in favor of the adoption of the plan was that it might at some future time tend to prevent some potential danger, which he apparently could not name or describe.

Plan No. 6 should be rejected by an affirmative vote for Resolution 522, for the reason that it is conceded that Plan No. 6 (*a*) will not give increased efficiency; (*b*) will not reduce expenditures; and (*c*) will deprive all those interested of an unbiased interpretation and administration of the law.

Respectfully submitted.

CLARE E. HOFFMAN.
ROBERT F. RICH.

○

Union Calendar No. 711

81ST CONGRESS
2D SESSION

H. RES. 522

[Report No. 1907]

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 1950

Mr. LUCAS submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

APRIL 6, 1950

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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RESOLUTION

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 6 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

H. RES. 522

[Report No. 1907]

RESOLUTION

Rejecting Reorganization Plan Numbered 6 of 1950.

By Mr. LUCAS

MARCH 28, 1950

Referred to the Committee on Expenditures in the Executive Departments

APRIL 6, 1950

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Medina, one of the liberal New Deal judges.

Or perhaps the legislator secured material from Mr. Abe Fortas, who is now counsel for Owen Lattimore. Mr. Fortas, even long ago, could probably have had easy access to any dosier the Communists and their friends would have prepared through his friends in the International Juridical Association. I think that organization is no longer functioning—at least, not under that name—since it was cited as a Communist-front organization. But in its heyday the International Juridical Association included among its top leaders Alger Hiss, Lee Pressman, Joseph Brodsky, and Mr. Lattimore's attorney, Mr. Fortas. Did this attorney, Mr. Fortas, furnish the public servant with this material?

I raise this question because the source of the material through which it is sought to discredit Budenz is very important. Who, what sources want to discredit Budenz's testimony today? Who wants to detract attention from the real issue?

The real issue to me today is: Was our Government wise in urging collaboration with the Communists in the Far East? If not, should we continue to allow those who formulated this policy to continue to advise, to orient, as it is now said, those who hold the top positions?

If the judgment of these sources of guidance was bad in the past, are we to glorify them for their bad judgment because one who attacks them admits that he once worked in a bad group with which he has now broken?

I would ask the public official to join with me in examining what has been our Far East policy and in evaluating the wisdom of its implementation so that, together, his party and mine, we may seek to evolve a foreign policy which would protect our own national interests and promote international cooperation among men of good will, rather than seeking to defend those who have made and those who have defended a policy of collaboration with the Communists in China and at home.

The following is the statement I have referred to by Father McGinley, of Fordham University:

[From the New York Times of May 14, 1950]

HEAD OF FORDHAM CHAMPIONS BUDENZ—FATHER MCGINLEY ASSAILS CHAVEZ AS COWARDLY, SAYS WITNESS HAS UNIVERSITY CONFIDENCE

The attack made on the Senate floor by Senator DENNIS CHAVEZ, Democrat of New Mexico, against Louis F. Budenz brought "personal vilification of Professor Budenz to a point even lower than that reached in the columns of the Daily Worker," the Very Reverend Laurence J. McGinley, president of Fordham University, said here yesterday.

He issued a statement defending the Fordham assistant professor of economics as "continuing to enjoy the full confidence of the university," according to the Associated Press.

In his statement, Father McGinley said:

"Prof. Louis Budenz joined the faculty of this university in 1946. Since that time he has given complete satisfaction in the discharge of his academic duties.

"Within the limits imposed on him by his obligations as a scholar and teacher, he has at times complied with the requests of public and private agencies to lecture on the philosophy of communism and on the subversive techniques of the Communist Party. This was done with the knowledge and consent of the university authorities.

"During his years at Fordham, Professor Budenz—both as a teacher and as a Christian gentleman—has deserved and continues to enjoy the full confidence of the university."

CALLS FROM GOVERNMENT CITED

"From time to time—much to his own inconvenience and the occasional inconvenience of the university—Professor Budenz has been subpenaed by the Government to testify in cases involving alleged Communists or Communist activities."

Father McGinley's statement continued:

"It has always been his wish that such information as might be sought from him by the Government be given solely on his own responsibility. He foresaw that he would be subjected to violent attack from Communist quarters and he did not wish to involve the university.

"It has remained, however, for a member of the United States Senate to bring this personal vilification of Professor Budenz to a point even lower than that reached in the columns of the Daily Worker. It might fairly be said that never within recent memory has a Member of Congress so used his immunity in personal attack upon the character of a fellow citizen.

"The Senator had the effrontery, moreover, to pose as a Catholic while publicly enacting this vicious offense against Christian charity. As a priest of the Catholic Church, and as president of the university of which Professor Budenz is a respected faculty member, I cannot allow so slanderous and cowardly a demonstration go unanswered."

CONSCIENTIOUSNESS PRAISED

"Under Government subpena, Professor Budenz has appeared as a witness in many trials over the last 5 years. He has, as was to be expected, when he testified against Communists or Communist activities, been castigated both here and abroad by those whose conspiracy he was called upon to expose.

"Never, to my knowledge, have responsible officials of our own Government or members of the American press had other than praise for his conscientiousness as a witness."

Father McGinley said in conclusion:

"It was not until he went recently to Washington—once again not at his own request but under subpena from a Senate committee—to testify in an inquiry into alleged Communist influences in our own Government, that those who should have been his friends turned on him with that weakest and most cowardly of all weapons—slanderous attack on his character and his family.

"As an American and a teacher of young Americans, I find Senator CHAVEZ' attack disturbing in the extreme. As a priest, I must denounce the hypocrisy and uncharitableness that have characterized it.

"Whatever mistakes Professor Budenz has made in the past are an open book. Unfortunately for him, he has had to live under the constant threat of Communist reprisals, and to bear in silence the sneers of modern Pharisees who are always ready to point a self-righteous finger at their fellow man.

"The Catholic Church, convinced of the sincerity of his repentance, welcomed Louis Budenz back into the fold. Let those, who, in the name of the church of charity, presume to shout another man's alleged transgressions from the housetops, look instead into their own hearts."

PERMISSION TO ADDRESS THE HOUSE

Mr. RANKIN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include excerpts from the CONGRESSIONAL RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

[Mr. RANKIN addressed the House. His remarks appear in the Appendix of today's RECORD.]

EXTENSION OF REMARKS

Mr. LUCAS asked and was given permission to extend his remarks and include a statement which he had prepared.

Mr. LARCADE asked and was given permission to extend his remarks in two instances and include extraneous matter.

Mr. ENGLE of California (at the request of Mr. HOLIFIELD) was given permission to extend his remarks and include an editorial.

Mr. HOLIFIELD asked and was given permission to extend his remarks in two instances.

Mr. McGREGOR asked and was given permission to extend his remarks.

Mr. DAGUE asked and was given permission to extend his remarks and include a clipping from a recent issue of the Philadelphia Inquirer.

Mrs. ST. GEORGE asked and was given permission to extend her remarks in two instances and in each to include a newspaper article.

Mr. RICH asked and was given permission to extend his remarks and include an editorial from the Altoona Tribune entitled "New Pattern for Democracy."

Mr. LEFEVRE asked and was given permission to extend his remarks and include an editorial.

Mr. VELDE (at the request of Mr. ARENDS) was given permission to extend his remarks and include an editorial.

Mr. MICHENER asked and was given permission to extend his remarks and include a resolution passed by the Michigan State Legislature.

Mrs. ROGERS of Massachusetts asked and was given permission to extend his remarks and include an editorial that appeared in this week's issue of the Disabled American Veterans' semimonthly magazine entitled "Let Congress Decide."

Mr. LANE asked and was given permission to extend his remarks in two instances and in each to include extraneous matter.

Mr. SUTTON asked and was given permission to extend his own remarks.

CALL OF THE HOUSE

Mr. H. CARL ANDERSEN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. HOLIFIELD. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 169]

Albert	Gilmer	Nixon
Allen, Calif.	Gore	O'Toole
Allen, Ill.	Granger	Pace
Anderson, Calif.	Hall,	Passman
Auchincloss	Edwin Arthur	Pfeiffer,
Barden	Hall,	William L.
Blatnik	Leonard W.	Phillips, Tenn.
Bolton, Md.	Havenner	Plumley
Bolton, Ohio	Heller	Poulson
Boykin	Hoeven	Powell
Bramblett	Irving	Quinn
Buckley, N. Y.	Jackson, Calif.	Rabaut
Bulwinkle	Jacobs	Rhodes
Burdick	James	Richards
Cannon	Jenison	Riehlman
Carlyle	Jones, N. C.	Rivers
Case, S. Dak.	Judd	Sabath
Cavalcante	Kearney	Sadowski
Chatham	Kearns	Sanborn
Chudoff	Kennedy	Sasscer
Cole, Kans.	Keogh	Saylor
Cooley	Kirwan	Scott, Hardie
Coudert	Kruse	Scudder
Davenport	LeCompte	Secrest
Davies, N. Y.	Linehan	Sheppard
Davis, Tenn.	Lodge	Sims
Deane	Lyle	Smathers
DeGraffenried	McConnell	Smith, Ohio
Dingell	McDonough	Stigler
Dolliver,	McGrath	Taylor
Douglas	McMillen, Ill.	Welch
Doyle	Macy	Wheeler
Durham	Magee	Whitaker
Eaton	Mahon	White, Calif.
Eberharter	Martin, Iowa	White, Idaho
Engel, Mich	Miles	Wickersham
Engle, Calif.	Miller, Calif.	Wood
Frazier	Monroney	Woodhouse
Furcolo	Morgan	Yates
Gathings	Moulder	Zablocki
Gillette	Murphy	

The SPEAKER. Three hundred and five Members are present, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REORGANIZATION PLAN NO. 6, 1950—DEPARTMENT OF LABOR

Mr. DAWSON. Mr. Speaker, notice having been served that this resolution would be called up, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 522) rejecting Reorganization Plan No. 6 of 1950.

Pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the resolution may continue not to exceed 4 hours, the time to be equally divided and controlled by the gentleman from Michigan [Mr. HOFFMAN] and myself.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The question is on the motion.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 522, rejecting Reorganization Plan No. 6 of 1950, with Mr. GARY in the chair.

The Clerk read the title of the resolution.

By unanimous consent, the first reading of the resolution was dispensed with.

The CHAIRMAN. Under the order of the House, the gentleman from Illinois [Mr. DAWSON] is recognized for 2 hours and the gentleman from Michigan [Mr. HOFFMAN] will be recognized for 2 hours.

Mr. DAWSON. Mr. Chairman, I yield myself 13 minutes.

Mr. Chairman, the Committee on Expenditures in the Executive Departments, to which was referred the resolution (H. Res. 522) rejecting Reorganization Plan No. 6 of 1950, having considered the same, reports unfavorably thereon without amendment and recommends that the resolution do not pass.

The purpose of House Resolution 522 is to express disapproval of Reorganization Plan. No. 12 of 1950, and the effect of the adoption of this resolution by the Congress will be to prevent such plan from coming into force and effect on May 24, 1950.

The purpose and effect of the reorganization plan, in the absence of a disapproval by a House resolution, are set forth in the plan in the following words and figures. I think, first, we ought to know exactly what is in plan No. 6:

SECTION 1. Transfer of functions to the Secretary: (a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Labor all functions of all other officers of the Department of Labor and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Labor.

SEC. 2. Performance of functions of Secretary: The Secretary of Labor may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Labor of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

SEC. 3. Administrative Assistant Secretary: There shall be in the Department of Labor an Administrative Assistant Secretary of Labor, who shall be appointed, with the approval of the President, by the Secretary of Labor under the classified civil service, who shall perform such duties as the Secretary of Labor shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 4. Incidental transfers: The Secretary of Labor may from time to time effect such transfers within the Department of Labor of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

Mr. Chairman, there are few matters engaging the attention of the American public at this time of greater importance than is either the approval or rejection of these plans of the President. They have been sent to us under a law that we ourselves passed in an endeavor to carry out the recommendations of the Hoover Commission.

The Hoover Commission was set up in the Eightieth Congress, and its purpose was to streamline our Government; the purpose of that Commission was to bring order out of chaos, and the recommendations of that Commission were designed to settle authority upon those who should bear that authority. The Hoover Commission came into existence because throughout the years under laws passed by the Congress the executive department has grown into an unwieldy proposition.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield to the gentleman from Pennsylvania.

Mr. WALTER. Was the plan now under consideration recommended by the Hoover Commission?

Mr. DAWSON. The plan under consideration was recommended by the Hoover Commission. This Commission was composed of Members of the Senate, Members of the House, and members appointed by the President, so the legislative branch that passed the law and passed on the plans was represented on the Hoover Commission, and the head of the executive department that executes the law also appointed members in order that there might be an impartial study made. This House was fortunate to have on that Commission two of its most able Members. From the Republican side we had the gentleman from Ohio [Mr. BROWN]. We all know his ability; we know the power that he has displayed always for the welfare of his country. On the other side of the aisle, on the Democratic side, we were represented by Congressman Manasco. I submit to you there is not a man in this House who was more interested in the Government and the streamlining of it and in saving the taxpayers money than was Congressman Manasco.

So when we pass upon these plans we are seeking to carry out recommendations that we ourselves created; we are seeking to carry out a thing which will be beneficial to all citizens of these United States, a thing which will place responsibility for governmental action in the hands of those who should bear this responsibility.

We were also fortunate in that we had as head of that Commission the only living ex-President, who had experience as the President of this Nation. President Hoover was the only living ex-President, and other than our present President who is now holding down the Executive Office, who has had such experience. So when we deal with this question, we are dealing with the recommendations of one who had been President and we are sustaining the plan of the man who is now President in order to give that President the responsibility for everything that goes on in the executive department.

Mr. Chairman, I submit to you that is good governmental procedure; it is good business procedure. Certainly you want the head of a department to be responsible to the President who appointed him for everything that transpires in that department. It just happens that the Congress at various times, because of change of circumstances, has set up various agencies and bureaus, but many times these agencies and bureaus were put into a department and the head of the agency or bureau was told to report to the Congress instead of to the department head.

I submit to you as Members of Congress that that is bad procedure. We

are the legislative body. We are the men that make the laws under which all departments of the Government must act. Certainly we ought never to put a bureau or an agency into an executive department unless we put it under the department head or the President, if we are going to hold the President responsible for what happens in his executive departments. Certainly we should never put an agency in a department and then have the administrator of that department not responsible to the head of that department if we are going to hold the department head responsible for what happens in his department. That is plain business, that is plain common sense, and that is all this plan tries to do. This plan seeks to put the responsibility into the hands of the Secretary of Labor for every function that is put into his department. That was certainly the recommendation of the Hoover Commission.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield to our distinguished majority leader.

Mr. McCORMACK. Support of this plan, the President's plan No. 6, by the House will be a vote in support of the Hoover Commission's recommendations, and will at least show that one branch of the Congress is supporting the Hoover Commission's recommendations.

Mr. DAWSON. On that I will say, humbly standing before you as a Member of the Congress, that I am not yielding to the other body greater ability to decide national questions than we here possess. I say to you, Members of Congress, that we live closest to the people. We go to the people every 2 years, and we, of all Members of Congress, ought to know what is in the minds of the people. The people of this Nation are interested in the reorganization of our executive departments. Probably there is no one subject matter now before the Congress that has engaged the attention of more people favorably than the implementation of the Hoover Commission's report by sufficient legislation, either by this Congress or by plans of the President, in order to carry out the recommendations of the Hoover Commission.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield to the gentleman from Pennsylvania.

Mr. RICH. May I ask whether the majority leader, when he asked a question a few moments ago about a number of resolutions that were vetoed by another body, is criticizing the other body because they have taken action on something on which the House has had no opportunity yet to voice its opinion?

Mr. DAWSON. I do not think it is necessary for our majority leader to answer that. The Senate is sufficient unto itself. Whatever they want to do is their business. But I think this House is closer to the people, and I think this House is in a better position to know the wishes of the people. I say to you once again, the people of this Nation are for the reorganization plans as recommended by the Hoover Commission. This is a good example of everybody being for reorganization except when it touches one of their pets.

I certainly have the highest respect for my distinguished friend from Texas [Mr. LUCAS], but he is in this position. He is the author of a bill that this plan would change about a little. He feels a natural pride in anything that he created, just like a hen with one chicken. Did you ever see a hen with many chickens? She scratches and lets the chickens pick up the food, but a hen with one chicken will not only scratch the food but kind of peck it over to the one little biddy. That is the position of my very distinguished friend [Mr. LUCAS]. This is his one biddy, it is his little chicken, and he wants to feed it and he wants to preserve it. But it just happens that the thing he is interested in is one of those mistakes that we made when we put into the department an agency that was not amenable to the head of that department.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield to the gentleman from Indiana.

Mr. MADDEN. I notice in the hearings there is a statement by Robert McCormick, research director of the Citizens Committee for the Hoover Report, who is for this resolution.

Mr. McCormick stated in his testimony:

> It is our view under the United States Constitution that the President as the only elected official in the executive branch should be given the authority to act. If he acts properly, wisely, and does not abuse his authority, it is up to the people to re-elect that administration, and if he acts unwisely and abuses his authority, it is up to the people to vote against that administration.

I believe Mr. McCormick made a sound statement on this problem.

Who is Mr. McCormick of the Citizens Committee for the Hoover Report?

Mr. DAWSON. We had quite a few members before us and quite a few witnesses and I cannot at this moment recall each individual witness. But certainly from all over the Nation we are getting commendations on the particular plan from the different organizations whose purpose is to bring the Hoover Commission recommendations into being, asking that it be passed.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield.

Mr. JONAS. Is the gentleman advocating a plan that is the same plan verbatim as the one contained in the Hoover plan or are you deviating from the original plan?

Mr. DAWSON. We are not deviating from the recommendations of the Hoover Commission, as will be told by other speakers. If I had the time I could read to you recommendation after recommendation sustaining the provisions of this plan.

Mr. JONAS. Is the plan that you are now advocating substantially that of the Hoover plan? Is it the recommendation of the Hoover Commission?

Mr. DAWSON. Essentially it is the recommendation of the Hoover Commission.

Mr. JONAS. What did your committee do with reference to adopting or rejecting this legislation?

Mr. DAWSON. We disapproved of the rejecting petition and ask the Congress not to pass the resolution seeking to disapprove this plan.

Mr. JONAS. I thank the gentleman.

Mr. CURTIS. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield.

Mr. CURTIS. The gentleman, having made a considerable study of this—may I ask him some questions for the purpose of gaining some information?

Are you able to cite in the Hoover Commission the direct recommendation for this particular plan of placing the Wage and Hour Administrator under the Secretary of Labor?

Mr. DAWSON. I am so certain that the answer to the gentleman's question will be made by those who follow me, sir, that if, when I take the time to close debate, the gentleman's question has not been answered, then I will be happy to answer him—if that is convenient to my distinguished colleague.

Mr. CURTIS. I just want you to tell me where to find it.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield.

Mr. HOLIFIELD. All of these recommendations are right here, and I will be glad to read them, if the gentleman from Illinois will yield me the time.

Mr. DAWSON. I yield to my colleague from California.

Mr. HOLIFIELD. The basis for Reorganization Plan No. 6 is as follows: In the Commission's report on organization, the report on general management, recommendation No. 13: Within each department a subsidiary division should also be created as nearly as possible according to the major policy.

That was what was done.

Recommendation No. 14: Under the President the heads of the departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.

This plan takes care of that.

Recommendation No. 16: Department heads must have adequate staff assistance if they are to achieve efficiency and economy in departmental operations.

This plan takes care of that.

Recommendation No. 18: Each department head should receive from the Congress administrative authority to organize his department and to place him in control of its administration.

This plan takes care of that.

I could go on and give you so many additional recommendations which are in harmony with this plan.

Mr. CURTIS. I do not want recommendations that are in harmony with it.

Mr. HOLIFIELD. I see that you do not.

Mr. CURTIS. I want to know whether or not the Hoover Commission recommended this specifically—that the Wage and Hour Division should go into and be subject to the Secretary of Labor.

Did they or did they not specifically spell out that one thing?

Mr. HOLIFIELD. The Hoover Commission did not spell out any plan that has been brought, or will be brought, before the Congress. It set up general principles for the compliance with the plans, and I state that this plan does comply with the general principles of organization which the Hoover Commission recommended for every department of Government.

Mr. CURTIS. Is it not true that President Hoover wrote a letter and attached a statement made by Professor Taylor directing and pointing out that these general recommendations should not be used to do the very thing that you are doing today?

Mr. DAWSON. That is not so. May I answer the gentleman? President Hoover, in a speech on May 14, talking about this very thing which is transpiring here today, said that these groups for their own reasons are undermining the broad principles and purposes laid down in his recommendations, and he said:

We have urged in our first report that the foundation of good departmental administration is authority from the Congress for the Secretary—

Talking about the Secretary of Labor—

to organize and control his Department. The granting by the Congress of independent authority to subordinates, of which there are several instances in the Department—

Talking about the Department of Labor—

should be eliminated.

(Mr. HOFFMAN of Michigan asked and was given permission to revise and extend his remarks.)

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, it is encouraging to be able to agree with the chairman of my committee, the gentleman who is vice president of the Democratic National Committee, in at least one thing, that is, that the House is nearer the people than is the other body, and that the House is in duty bound to act not only upon this plan but should have acted upon all the other plans.

It is rather surprising to find the gentleman from Illinois [Mr. DAWSON], chairman of the committee, and other members of the committee on the majority side, coming in and agreeing with Mr. Hoover, advocating a procedure which they say he promulgated. For a great many years all the ills of this country have been charged to the Hoover administration. Now we find those who have always opposed him are all for Mr. Hoover's recommendations—as interpreted by them—do not forget that thought—as construed by them.

We are here today because the House saw fit to write a reorganization law which permits the President to send down proposed legislation affecting the excutive departments which shall become the law of the land unless at least one House of the Congress vetoes that plan within 60 calendar days. That reorganization legislation was written because the people had become aware of the fact that this country was on the way to ruin unless we injected a little efficiency, a little economy in Federal operations. So the Congress, in its wisdom, or lack of it, passed the first basic reorganization law. Under that law we now have from the President some 25 plans, sent down here to be acted upon within 60 days.

The gentleman from Illinois [Mr. DAWSON] made a statement with which I cannot agree. He said that this plan No. 6, which transfers all of the functions of the Labor Department to the Secretary of Labor, was the recommendation of the Hoover Commission. With that statement I cannot agree.

PAST ATTEMPTS TO PLACE THE ADMINISTRATION OF THE WAGE AND HOUR LAW IN THE SECRETARY OF LABOR

The Congress has three times rejected the President's proposal, as outlined in Reorganization Plan No. 6, which would lodge administrative and enforcement powers under the Fair Labor Standards Act of 1938 (the Federal wage-and-hour law) in the Secretary of Labor.

First. The first attempt was made at the time of the consideration by Congress of the original Fair Labor Standards Act in 1937 and 1938. The House at that time passed a bill vesting the administrative power in the Secretary of Labor—see House Report 2182, April 21, 1938, Seventy-fifth Congress, third session, and Eighty-third CONGRESSIONAL RECORD, page 7450, May 24, 1938—while the Senate passed a bill placing the administrative authority in a five-man board—see Report 884, July 6, 1937, Seventy-fifth Congress, first session, and Eighty-first CONGRESSIONAL RECORD, page 7957, July 31, 1937. The conference committee, in reconciling the differences between the Senate and House bills, declined to place the administrative power in the Secretary of Labor and instead set up an independent Administrator of the Wage and Hour Division in the Department of Labor—see section 4 (a) of the Fair Labor Standards Act of 1938; see also Eighty-third CONGRESSIONAL RECORD, pages 9178, 9246, 9255, 9266, 9267, June 14, 1938.

Second. Again, on May 1, 1947, the President, pursuant to the Reorganization Act of 1945, submitted to the Congress a reorganization plan, one part of which would have transferred to the Secretary of Labor the functions vested in the Administrator by the Fair Labor Standards Act of 1938. This proposal was rejected by the House on June 10, 1947—Ninety-third CONGRESSIONAL RECORD, page 6740; see also House Report No. 499, June 2, 1947, Eightieth Congress, first session—for the following reasons:

(a) Such transfer was contrary to the plain intention of Congress when it passed the Fair Labor Standards Act of 1938.

(b) The transfer would place responsibility for administering and enforcing a regulatory statute affecting employers and employees in the hands of one whose basic duty it is to foster and promote the interests of only one of the regulated groups—employees.

(c) The transfer was contrary to the public interest, in that it would increase the workload and responsibility of a Cabinet officer by placing under his direct control administrative and enforcement duties, which experience has shown require the full-time services of a responsible and trained officer of the Government.

(d) The transfer would place in the Secretary of Labor responsibilities so conflicting that he would be unable to perform them in accordance with the intent and mandate of Congress.

The Senate also rejected this reorganization plan of 1947—Ninety-third CONGRESSIONAL RECORD, page 7874, June 30, 1947. The two principal reasons were expressed in the Senate for such rejection—Ninety-third CONGRESSIONAL RECORD, pages 7860–7861, June 30, 1947. The first was that the transfer would vest in a department, required by law to be a fiduciary for labor, functions affecting both management and labor. The second reason advanced against the transfer was that it would create a condition of uncertainty as to whether there would be any officer on whose rulings with respect to the Fair Labor Standards Act an employer might rely under section 10 of the Portal-to-Portal Act. Under that section an employer may not be held liable for his failure to pay minimum wages or overtime compensation under the Fair Labor Standards Act, if his failure was in reliance on rulings, orders, regulations, etc., of the "Administrator of the Wage and Hour Division of the Department of Labor." If the administrative authority under the law is taken from the Administrator and placed in the Secretary of Labor, there would be grave uncertainty as to whether an employer could thereafter rely upon the rulings of either the Administrator or the Secretary of Labor.

Third. At the last session of Congress, the Congress passed and on October 26, 1949, the President approved amendments of the Federal wage-and-hour law. A major problem raised under the many different proposals to amend the act was whether the administrative and enforcement authority thereunder should be taken from the Administrator and placed in the Secretary of Labor.

The Congress answered this question with an emphatic negative—see CONGRESSIONAL RECORD, August 9, 1949, page 11347; CONGRESSIONAL RECORD, August 10, 1949, pages 11450–11451; CONGRESSIONAL RECORD, August 11, 1949, pages 11511–11512; Senate Report No. 640, July 8, 1949, Eighty-first Congress, first session, pages 2, 6; CONGRESSIONAL RECORD, August 31, 1949, page 12811—despite the fact that the House Committee on Education and Labor had favorably reported a bill which, among other things, would have effected this transfer—see House Report No. 267, March 16, 1949, Eighty-first Congress, first session, page 14.

Notwithstanding these facts, the main object of Reorganization Plan No. 6 of 1950 is to accomplish through indirection that which only 6 months ago the Congress said should not be done; namely, to transfer the administrative

powers under the wage-and-hour law to the Secretary of Labor.

THE OFFICE OF THE SECRETARY OF THE DEPARTMENT OF LABOR IS NOT AN APPROPRIATE ONE TO ADMINISTER THE DUTIES AND FUNCTIONS NOW PERFORMED BY THE WAGE-AND-HOUR ADMINISTRATOR

The organic act establishing the Department of Labor, the philosophy which guides the policy-making officials of that Department, and the organization through which it administers the laws which are entrusted to it all show that the office of Secretary of Labor is not an appropriate one to administer the wage-and-hour law.

The organic act of 1913 establishing the Department of Labor states the purpose of the Department is "to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment." The Department of Labor is staffed with Assistant Secretaries recruited from organized labor. The Assistant Secretaries at present are: John Gibson, former CIO director for the State of Michigan; Ralph Wright, former official of the International Typographical Union, AFL; and Philip Kaiser, who heads the Office of International Labor Affairs. The Department of Labor takes the position that it is spokesman for labor in the President's official family, and the loyalties of the Department's staff are keyed to labor's interests.

A department which by law, by organization, and by philosophy is set up to advocate labor's interests cannot administer impartially and fairly a great statute affecting the rights and obligations of both employers and employees. The most essential possession of any governmental body charged with enforcing the law is its ability to inspire public confidence in its impartiality and freedom from bias. Obviously, the Secretary of Labor and the Department which he heads fall short of meeting this test for the fundamental reason that they are required to play a partisan role in labor-management controversies. The transfer of the functions of the Wage and Hour Administrator to the Secretary of the Department would place in the Secretary of Labor responsibilities so conflicting that he would be unable to perform them with the even-handed justice intended by Congress.

THE DUTIES AND FUNCTIONS PERFORMED BY THE WAGE AND HOUR ADMINISTRATOR REQUIRE IMPARTIAL ADMINISTRATION

The exercise of the duties and functions of the Administrator determines to a large extent which employers are subject to the requirements of the act and which employees are entitled to its minimum-wage and maximum-hour benefits. This can be shown by a series of examples.

(a) Under the law, an exemption from minimum wages and overtime is granted to executive, administrative, professional, local retailing capacity employees and also to outside salesmen. The exemptions for these employees, however, are not spelled out in the statute. The Administrator of the law is given the final responsibility to define these terms from time to time and thereby fix their scope. In carrying out this responsibility he must decide between the conflcting contentions of labor and management; i. e., whether the terms should be defined narrowly or broadly.

(b) Under the law, employees engaged in processing agricultural commodities are exempt if they perform their work within the "area of production." The Administrator is required to define the term "area of production" in order to determine the extent of the exemption. Here again he is required to accommodate his definition to the competing claims of labor and management.

(c) Under the law, an overtime exemption is granted to employees working in seasonal industries. But the exemption is not available to any employer until the Administrator finds that his industry is seasonal in nature.

(d) In determining employees' regular rates of pay for purposes of paying overtime, an employer need not include amounts contributed by him to profit-sharing plans. Such plans, however, must meet standards set up by the Administrator.

(e) Under the law, learners, apprentices, messengers, and handicapped workers may be employed at less than 75 cents an hour. This is permitted, however, only under terms and conditions prescribed by the Adminstrator. To provide employment opportunities for these types of workers, it is frequently necessary for employers to employ them at subminimum rates. Labor unions, however, by and large, oppose any such employment.

(f) One of the most important functions the Administrator performs is to issue interepretations concerning the coverage of employees and employers under the law. These interpretations are his determinations as to which employees are engaged in interstate commerce or the production of goods for interstate commerce and which employees come within the provisions of various exemptions, such as those granted to argicultural labor and retail and service establishments. The courts have held that these interpretations are entitled to great weight and thus they have gone a long way in establishing the extent of the application of the minimum-wage and overtime provisions to employees throughout the country.

The Adminstrator of the Wage and Hour Division also has the responsibility of instituting litigation against employers to enforce the law. Such litigation may be either in the form of an injunction suit or in the form of a suit on behalf of employees to collect unpaid back wages or overtime. The Administrator, in other words, exercises not only the legislative function of deciding in many instances the extent to which employers and employees come under the law, but also the prosecutorial function of instituting proceedings against employers to enforce his rules and interpretations against those charged with violations of the law. He also collects unpaid wages and overtime compensation from employers as a part of his enforcement activities.

As the legislative charter of the Department requires the Secretary to act as a special pleader for labor and to promote its special welfare, the Secretary and his assistants are not appropriate officers to resolve the conflicting interests of labor and management as is required by the wage-and-hour law. To place administration of the law in the hands of such officers would be to require those who by law are required to "foster, promote, and develop the welfare of wage earners" to render an impartial decision, a duty impossible of performance. Such a situation would tend to destroy the confidence of the public in their Government.

THE ATTITUDE OF THE HOOVER COMMISSION

The recommendations of the Hoover Commisison were based upon investigations of so-called task forces and expert consultants. Mr. Herbert Hoover, Chairman of the Commission, in submitting the report on the Department of Labor to the Congress, also submitted a typescript memorandum on the Department of Labor, which was prepared by George W. Taylor, professor of labor relations, University of Pennsylvania, and former Chairman of the National War Labor Board, Professor Taylor is widely regarded by labor unions as a warm friend of organized labor. The text of Mr. Hoover's letter of transmittal to the Congress, dated March 11, 1949, is as follows:

The honorable the PRESIDENT OF THE SENATE.
The honorable the SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEAR SIRS: In accordance with Public Law 162, Eightieth Congress, approved July 7, 1947, the Commission on Organization of the Executive Branch of the Government submits herewith its report on the Department of Labor, and separately, in typescript, a memorandum on the Department by George W. Taylor, professor of labor relations, University of Pennsylvania, and former Chairman, National War Labor Board.

The Commission wishes to express its appreciation to Professor Taylor, the members of the task forces listed in the acknowledgment, and to the officials of departments and agencies concerned for their cooperation.

Respectfully,

HERBERT HOOVER.

Professor Taylor in his memorandum set forth the basic consideration which should govern in any reorganization of the Department of Labor. He said, in part:

NATIONAL POLICY AS RESPECTS THE RELATION BETWEEN THE DEPARTMENT OF LABOR AND LABOR UNIONS

Previous mention has been made of the relation between labor unions and the Department of Labor as one of the three fundamental areas that need investigation, and it was then suggested that the tripartite task force might best be able to operate in this area. It would appear that such a task force might be assigned the responsibility for considering just what role the Department of Labor should play. Any determination in this regard would dictate, in no small measure, the functions that should be assigned to the Department of Labor.

The legislation of March 3, 1913, which created a separate Department of Labor, also stated its purposes, in general terms, as follows:

"* * * to foster, promote, and develop the welfare of the wage earners of the United

States, to improve their working conditions, and to advance their opportunities for profitable employment."

It is of the utmost importance to recognize that these purposes were expressed at a time when wage earners were largely unorganized. No Wagner Act was on the statute books. Collective bargaining had not received legislative approval as the sound method for determining, hours, wages, and working conditions.

The generally stated purposes of the Department of Labor are substantially the same as the general purposes of most labor unions. Since most employees look to the unions rather than to the Department of Labor for improvement of their conditions of employment, the Department and the labor unions may be expected to cooperate closely in seeking to achieve the stated purposes of labor unions.

In line with such reasoning, the Department of Labor has been widely looked upon as the advocate of organized labor in the Government—except perhaps by organized labor. Experience has shown the need for an avenue of consultation between the Government and the labor unions—and even through which union participation in many governmental matters may be secured. This raises the question: Should the Department of Labor be developed primarily as the representative of organized labor in the Government? If so, then the governmental functions assignable to administration by the Department of Labor would be the ones not incompatible with such a position.

On the basis of experience it would appear that the Department of Labor cannot be a vital agency as long as it is expected, in various quarters, to be an advocate of labor interests in conformance with its legislative charter, and at the same time an impartial administrator of the national labor policy in the public interest. It follows that, if the advocacy function is emphasized, then consideration might well be given to the creation of one separate department or agency, instead of the large number of independent agencies which now obtain, to administer those parts of the national labor policy in which conflicting interests must be appraised in the light of public necessities.

No recommendation on this fundamental question at this time would constitute a resolution of the difficulty. Urgently needed, however, is some procedure or mechanism for grappling with it. In my judgment, the tripartite task force previously discussed might well be selected as the agency for examining this question.

Then, in his conclusions and as part of his recommendations, Professor Taylor stated:

1. Any recommendation of the Commission respecting organization of the Department of Labor should be made only after extensive consultation with representatives of organized labor and of management as well as with the Secretary of Labor.

2. There has been as yet no thorough investigation of the Department of Labor comparable to that made of other executive departments. This seems to indicate that the more or less generally used investigating procedures cannot be applied to the Labor Department.

3. Since substantive recommendations should not be made in the absence of careful investigation, it is suggested:

(a) That substantive recommendations should not now be made, but

(b) That recommendations should be limited to procedures to be followed in investigating the Department of Labor problem and in composing differences respecting the activities of that Department.

4. Inasmuch as the problem to be dealt with is complex, consideration might also be given to proposing an agenda for the guidance of any investigating agency that might be set up.

Thus, as Professor Taylor pointed out, the Department of Labor cannot serve both as an advocate of labor interests in conformance with its legislative charter and as an impartial administrator of national labor policy in the public interest.

The Hoover Commission, in its report on the general management of the executive branch, stated in recommendation No. 14:

Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.

In its report on the Labor Department, the Hoover Commission stated:

We have urged in our first report that the foundation of good departmental administration is authority from the Congress for the Secretary to organize and control his Department. The granting by the Congress of independent authority to subordinates, of which there are several instances in the Department, should be eliminated.

It will thus be seen that the Hoover Commission recommended that no subordinate bureau in a department should exercise independent authority. The Administrator, however, is not in any sense a subordinate officer of the Secretary but rather is a wholly independent officer, as the Fair Labor Standards Act so plainly shows and the decisions of the courts verify.

The Wage and Hour Division was not established by Congress as an integral and subordinate unit of the Department of Labor as were other bureaus which were set up in that Department or in other departments.

On the contrary, the Wage and Hour Division was created as a completely independent agency, with final authority for the administration of the law vested in an Administrator, who makes his own annual report to Congress—section 4 (d), Fair Labor Standards Act. In other words, the Division was placed in the Department of Labor only in name but not as a subordinate unit thereof. Unfortunately, the report on the Department of Labor shows that the Commission was unaware of these facts, since it refers to the Wage and Hour Division as a functional unit of the Department of Labor.

It will also be noted that the Commission's report on the Department of Labor was submitted to the Congress on March 11, 1949. The Congress thereafter passed the fair labor standards amendments of 1949, and plainly expressed its desire to keep the administrative powers lodged in an independent administrator.

UNSOUND ARGUMENTS IN FAVOR OF REORGANIZATION PLAN NO. 6

First. It has been urged that it is the policy of the Hoover Commission that the various functions and duties of independent agencies and officers should be subordinated to the authority of a Cabinet officer who is answerable to and under the immediate direction of the President. It is argued that this will assist the President in the exercise of his manifold duties of directing and supervising the executive establishment of the Government. The Hoover Commission recommendations, however, recognize that consistent with good government, this cannot be done in all cases. The Commission has not recommended that the National Labor Relations Board, the Securities and Exchange Commission, the Interstate Commerce Commission, the Federal Trade Commission, the Federal Power Commission, the Federal Communications Commission, and many other agencies be subordinate to any Cabinet officer. All these agencies, like the Wage and Hour Division, exercise powers affecting the conflicting interests of different economic groups. If good administration requires that these agencies remain separate and independent, there is as much reason to continue the independent status of the Wage and Hour Division.

Second. It has been argued that the powers of administration under the Walsh-Healey Act, which imposes wage-and-hour requirements upon Government supply contractors, are in the Secretary of Labor and therefore the administrative powers under the Fair Labor Standards Act should also be placed in the Secretary. The coverage of the two statutes, however, is completely dissimilar. The application of the Walsh-Healey Act to any employer is optional with him, since the act does not apply unless he elects to enter into a contract with the Government to furnish it supplies and under the conditions which it imposes. Under those circumstances, even if the act is administered by an agency which is a partisan for labor, the employer has no basis for complaint.

The application of the Fair Labor Standards Act, however, is in no sense optional with the employer, as the law automatically applies to him if he is engaged in interstate commerce or in the production of goods for interstate commerce and is not specifically exempt. He is entitled, therefore, as a matter of simple fairness, to have the law administered by an unbiased and impartial agency.

CONCLUSION

The administrative and enforcement powers under the Fair Labor Standards Act should remain where the Congress has three times determined they should be. If such powers are to be transferred to the Secretary of Labor, the organic act of the Department should be revised to make the Department a guardian of the public interest rather than solely that of labor.

It is the duty of the Congress to provide good government for the American people. This cannot be done by placing in the hands of a biased agency, an agency created and charged by law with the duty of promoting the interests of one group, authority which should be exercised by unprejudiced and dispassionate administrators.

The need for economy and efficiency in the executive departments is not questioned. However, the sole purpose in the formation of our Government was not the promotion of either economy or effi-

ciency, or even a combination of the two. The primary purpose in the minds of those who fathered our Government and enunciated the principles upon which it was to proceed was the preservation of the liberty of the citizen.

Mr. Justice Brandeis recognized that fact when he said:

The doctrine of the separation of powers was adopted by the Convention of 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction but by means of the inevitable friction incident to the distribution of the governmental powers among three departments to save the people from autocracy.

The basic thought behind the Hoover Commission recommendations was the promotion of economy and efficiency. Reorganization Plan No. 6 does neither. Nor can an argument for the adoption be based upon the contention advanced in favor of adoption of Reorganization Plan No. 12, that it would tend to eliminate controversy between the Administrator and the Secretary of Labor, for in this situation there is no friction.

Frederick J. Lawton, Director of the Bureau of the Budget, when testifying before the committee, admitted that he knew of no conflict in policy between the Administrator and the Secretary of Labor. He conceded that the adoption of the plan would not give economy or increased efficiency.

In the hearings it was admitted and frankly stated that, if the plan was adopted, the Secretary of Labor would immediately redelegate to the same individuals the authority now exercised by them.

About the only reason Mr. Lawton could advance in favor of the adoption of the plan was that it might at some future time tend to prevent some potential danger, which he apparently could not name or describe.

Plan No. 6 should be rejected by an affirmative vote for Resolution 522, for the reason that it is conceded that plan No. 6 (a) will not give increased efficiency; (b) will not reduce expenditures; and (c) will deprive all those interested of an unbiased interpretation and administration of the law.

Mr. DAWSON. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. HUBER].

(Mr. HUBER asked and was given permission to revise and extend his remarks.)

Mr. HUBER. Mr. Chairman, I think we had better be a little careful about this confusion of names, because someone may accuse the gentleman from Michigan [Mr. HOFFMAN] of being the ECA Administrator.

Mr. Chairman, I support Reorganization Plan No. 6 of 1950 under which the Secretary of Labor would have full authority to organize and control the Department of Labor, and urge the rejection of House Resolution 522 which would disapprove this plan.

The Hoover Commission has pointed out, in its report on the Department of Labor, that there are several instances of "grants of independent authority to subordinates" in the Department of Labor. The existence of these independent agencies within the Department is inconsistent with some of the major findings of the Hoover Commission concerned with organization of the Executive Departments. The Commission found and recommended that each head of an Executive Department should have full responsibility for the conduct of his Department; that there must be a clear line of authority reaching down through every step of the organization; and that no subordinate should have authority independent from that of his superior.

The principal instance of a grant of independent authority to a subordinate in the Department of Labor is, of course, a semi-independent authority conferred upon the Wage and Hour Administrator by the Fair Labor Standards Act. As the Secretary of Labor explained in his statement submitted to the House Committee on Expenditures in the Executive Departments during the course of its hearings on House Resolution 522 by the Under Secretary of Labor, the Honorable Michael J. Galvin:

The Department, of course, handles personnel and budget matters and provides legal services for him, so that his operations are closely tied into the Department on the management side. Under a delegation of authority from the Secretary, the Administrator also has charge of certain functions under the child-labor provisions of the act, so he is also tied into the Department in an operating way to a considerable extent. Yet, under the law, the wage-and-hour provisions of the act are his to administer, and the Secretary has nothing to say about his administration of these provisions.

The confusion that can result from this situation was clearly set forth by the Secretary of Labor in his statement. He pointed out that—

Although we have done as much as we can to coordinate administration of the child-labor and wage-and-hour provisions of the Fair Labor Standards Act, there are problems we cannot solve under the present division of authority between the Secretary of Labor and the Wage and Hour Administrator. For example, when a Department inspector goes into an establishment, finds violation of both the child-labor provisions and the wage-and-hour provisions, and attempts to secure compliance with the act, two actions must be brought in the courts if the employer refuses to come into compliance with the act. The Administrator cannot enforce compliance with the child-labor provisions in the courts. Nor can I, as Secretary of Labor, enforce in the courts compliance with the wage-and-hour provisions. Accordingly, in a situation such as I have described, an action must be brought in my name to enforce the child-labor provisions and a separate action must be brought in the name of the Administrator to enforce the wage-and-hour provisions. So, the employer is faced with two suits instead of only one as would be the case if Reorganization Plan No. 6 were in effect. This is needless and burdensome on him and on us.

But let me carry the illustration a little further. If in the course of the investigation it becomes necessary to subpena an employee or any of the employer's books or records, the subpena must be issued by the Administrator if the desired information related to compliance with the wage-and-hour provisions; if it relates to the child-labor provisions, it must be issued by the Secretary. Such situations can only be construed by employers and employees as unnecessary harassments and can do much to undermine public confidence in the efficiency and effectiveness of administration of the Fair Labor Standards Act.

Another illustration of the situations that the present division of authority by the Administrator and the Secretary of Labor results in was given by the Secretary in his statement, as follows:

Let me give another illustration of the kind of thing that can and does happen. As Secretary of Labor, people come to me with problems which confront them arising out of laws administered by the Department. It is confusing to them, and unsatisfactory to me, when I have to tell them that if their problem concerns child labor under the Fair Labor Standards Act I can listen to what they have to say, investigate the facts, and make appropriate disposition of the matter; but if it involves wages or hours, I must refer them to the Wage and Hour Administrator.

Or suppose an inquiry comes from an employer, or a union representing employees, who are working on a Government contract covered by the Public Contracts Act and are also engaged in work covered by the wage-and-hour law. If the inquiry relates to the employer's wage practices, I can give definite answers so far as the public contract work goes, but I can't give binding advice on whether the requirements of the wage-and-hour law are being met. Only the Wage and Hour Administrator can do that. So the inquiring employer or union must see both the Administrator and myself. This kind of situation, too, makes for dissatisfaction and confusion. If Reorganization Plan No. 6 of 1950 goes into effect, however, such sources of confusion for those who have business to do with the Labor Department will be eliminated.

We should not be swayed, Mr. Chairman, in approaching the question whether to approve or reject House Resolution 522 by any contention that a semi-independent Administrator of the Wage and Hour Division is in a better position to administer the wage-and-hour provisions of the Fair Labor Standards Act fairly and impartially than is the Secretary of Labor. The Administrator, himself, testified in support of the plan, stating:

I believe that the placement of full responsibility in the Secretary's office will result in considerable improvement in the administration of the act. The Secretary has indicated in his testimony and has assured me that he intends to delegate his responsibility to the Administrator with full responsibility to act, subject to the Secretary's general direction and control. I believe this policy of centralized responsibility, to be exercised under the direction and control of the Secretary, will result in an effective as well as impartial administration of the law.

Mr. Chairman, the provisions of Reorganization Plan No. 6 of 1950 carry out, with respect to the Department of Labor, important recommendations of the Hoover Commission. They are consistent with the Hoover Commission's recommendations on executive departments and in no way depart from such recommendations. The plan will make for greater efficiency and effectiveness in the administration of the Department of Labor.

I strongly urge my colleagues to reject House Resolution 522 and to give its

approval to Reorganization Plan No. 6 of 1950.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. HUBER] has expired.

[Mr. MORTON addressed the Committee. His remarks will appear hereafter in the Appendix.]

Mr. DAWSON. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. ROOSEVELT].

Mr. ROOSEVELT. Mr. Chairman, I rise in opposition to the resolution (H. Res. 522) rejecting Reorganization Plan No. 6. I would point out that the Committee on Expenditures in the Executive Departments, in its report on this resolution, has recommended that it do not pass. Significantly, of the 25 members of the committee, only two joined in the minority report.

Reorganization Plan No. 6, which would transfer functions of other officers of the Department of Labor to the Secretary of Labor and permit him to rearrange functions within his Department, is only one of several similar reorganizations proposed for the Justice, Interior, Agriculture, and Commerce Departments.

I would just like to say to my good friend and fellow member on the committee, the gentleman from Michigan [Mr. HOFFMAN] that when he tries to ridicule President Truman and the Administration for submitting reorganization plans to the Congress, in carrying out the recommendations of former President Hoover, simply because we happen to agree with former President Hoover on the needs of reorganization in the executive branch, that, as a Democrat, I will always feel free to agree with former President Hoover, whenever the issues in question permit me to do so—without feeling ridiculous.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ROOSEVELT. In just a minute. For example, I have often commended President Hoover for his action during his term of office, in inaugurating the Reconstruction Finance Corporation. There are many matters of government which should not be lowered to a purely political, partisan attitude. We as representatives of the people, like former President Hoover as a former President of the United States, should approach matters such as efficiency of government, economy of government, from a nonpartisan, nonpersonalized, nonpolitical attitude. I have long advocated the carrying out of the Hoover Commission reports. As a Democrat I am proud that the President, the leader of my party, has eliminated politics from his problem. I hope to be able to continue to do my bit to see that the reorganization plans sent to the Congress by the President based on the Hoover Commission recommendations are carried out.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ROOSEVELT. Yes; I shall be delighted to yield, provided this is kept on a nonpartisan, nonpolitical level.

Mr. HOFFMAN of Michigan. The gentleman may so construe it.

I was not attempting to ridicule Mr. Truman at all; I was merely paying tribute to his political astuteness and calling attention to the fact that the only time, to my knowledge at least, in which the Democratic Party had agreed with Mr. Hoover was when it thought it would serve its own political interests. That is all I was trying to do.

Mr. ROOSEVELT. I am glad that I have added to the gentleman's fund of information by telling him that I for one as a Democrat have long commended President Hoover for inaugurating the RFC. So now we have at least two things upon which we agree.

The Hoover Commission in its report stressed the fact that there existed within the Department of Labor grants of independent authority to subordinates. These independent powers of subordinate officials not only hamper efforts to attain administrative efficiency, but create uncertainty as to where final authority for some functions rests.

The most obvious case of such independent authority in the Labor Department is that of the Wage and Hour Administrator. He is responsible for the administration of the wages and hours provisions of the Fair Labor Standards Act, among the most important acts administered by the Department. On the other hand, the Secretary of Labor is responsible for the enforcement of the child-labor provisions of that act. He is also responsible for the administration of the Walsh-Healey Public Contracts Act, which protects labor standards of employees of contractors supplying the Government. He is also responsible for the determination of prevailing minimum wages under the Davis-Bacon Act.

The Fair Labor Standards Act and the Public Contracts Act relate to the same general subject. Because the Secretary of Labor has delegated his authority under the Public Contracts Act to the Administrator, they are administered by the same personnel. Yet ultimate responsibility is in two heads.

Mr. Chairman, this clear lack of integration in the administration of laws of the same general purpose, using the same personnel, but headed up by two separate heads, this confusion would be eliminated by the adoption of plan No. 6. Luckily, at the moment, the Secretary of Labor and the Wage and Hour Administrator have been able to cooperate in the administration of the Fair Labor Standards Act, but this is dependent, and based not on law but the sheer coincidence that we have two cooperative personalities involved. This, Mr. Chairman, will not always perhaps be the case, and the confusion that could result from two diametrically opposed personalities can be envisioned.

Some reference has been made to a Mr. Taylor, who was a consultant of a task force of the Commission; in other words, he is about the third or fourth echelon down. I am going to put into the RECORD because I have not time to read it the statements before the committee of Mr. McCormick, executive assistant to former President Hoover during the time of his work with the Hoover Commission, who I think is now the executive director of the Citizens Committee for the Hoover reports. He foresaw some of the objections which would be raised in connection with this plan, but he foresaw that attempts would be made to say that, because this is a delegation of authority to the Secretary of Labor, that therefore the administration of this authority would be from a biased point of view. Mr. Chairman, I cannot subscribe to that kind of evidence of a complete lack of confidence in the integrity of public officials. The Secretary of Labor is appointed by the President of the United States. Under the Constitution, the President is the only elected official of the executive branch. If he administers his office and if his subordinates administer their offices with integrity and with wisdom, then the people at election time may reelect that group, that administration, to office; but if there is evidence of lack of integrity by the Secretary of any department, I do not care whether it is the Secretary of Labor or Agriculture, or Commerce, or Justice—if there is evidence of lack of integrity of administration, any unfairness to those covered by existing legislation, then the people will note that lack of integrity and they have their recourse on election day. I think this kind of an argument not only is invalid but those who make it declare publicly their lack of confidence in our American system of government.

It is strange that nearly every measure taken to improve the operations or to strengthen the functions of the Department of Labor is opposed year after year.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. DAWSON. Mr. Chairman, I yield the gentleman one additional minute.

Mr. ROOSEVELT. These measures are opposed on the same ground by many of the same identical pressure groups. For example, when we were considering plan No. 2 last summer the same groups were opposed to it as are now opposed to this. Undaunted by setbacks, unmoved by the merits and unimpressed by the weight of the evidence, they come back time after time and raise the same unsound allegations.

Mr. Chairman, I would like to conclude my remarks by making two points that I made before in connection with Reorganization Plan No. 2 only last week. First of all, it is time that some of the private groups opposing this plan get over their old fire-horse reaction to the word "labor." Any time the word "labor" is mentioned a curtain goes down over their minds and they charge off in all directions to oppose whatever is being discussed. It is opposition unthinking. Secondly, it is time that those who do most of the talking about Government efficiency and businesslike management do a little act for it to prove their good faith.

Mr. Chairman, I will urge the rejection of this resolution.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. JAVITS].

Mr. JAVITS. Mr. Chairman, I shall vote "no" on the resolution to reject this plan and I think my reasons for so voting of sufficient importance as to describe them to the House, because I believe in this respect I occupy the position of almost any Member who is not a member

of the Expenditures Committee, and, therefore, is trying to find his way through the facts that are presented to us. Certainly most of us have expressed our desire to support the recommendations of the Hoover Commission and this regardless of party. That is a great tribute to the only living ex-President of the United States.

There is an old adage that the way to begin is to begin. When a recommendation of the President stems directly from the recommendation of the Hoover Commission I think the burden of proof is very difinitely on those who would ask us to veto it.

I have examined the report of the minority because I think it is well to look at the opposition's arguments first. The question is whether these recommendations are or are not the recommendations of the Hoover Commission. I find this statement which may be of some interest to the other Members, as it was quite decisive with me, on page 19 of the minority views:

> In other words, the Division was placed in the Department of Labor only in name but not as a subordinate unit thereof. Unfortunately, the report on the Department of Labor shows that the Commission was unaware of these facts, since it refers to the Wage and Hour Division as a functional unit of the Department of Labor.

I submit that we certainly cannot assume in passing on these reorganization plans that a commission which did as complete and thorough a job as the Hoover Commission was unaware of the facts with respect to this Wage and Hour Division. I think we have a right to assume when it is stated that the division was a functional unit of the Department of Labor that if there was any doubt about that they have made a finding of fact in connection with its report that the Wage and Hour Division was a functional unit of the Department.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. JAVITS. I yield to the gentleman from Michigian.

Mr. HOFFMAN of Michigan. The gentleman will note on the preceding page Mr. Hoover sent down the Taylor letter and Mr. Taylor says we should not do anything about this nonsense. I think, again, we have to stick to one of the recommendations, the principal recommendations, the recommendations in principle of the Commission and its main task force.

Mr. JAVITS. I may say to the gentleman from Michigan that I am indebted to him for this time, and that if there is some additional light which the gentleman can cast on this statement, I think it should be done for the benefit of the House, because I think we are all as one, or at least most of us are as one, in the desire to help the practice of efficiency and economy. There we all stand together. Certainly I should say on my side of the aisle Members would be very much disposed to go along with the Hoover recommendations and to practice the kind of efficiency and economy they were supposed to provide. So I would appreciate, and I think other Members would, any further light the gentleman from Michigan can cast on that statement.

Mr. HOFFMAN of Michigan. Then I have two questions. The first is this: Has the gentleman ever been able to find anywhere in any of the testimony that any witness stated there would be either economy or efficiency in the adoption of this plan? I have not been able to, and I listened to the testimony.

Mr. JAVITS. That was implicit and certainly implied in the organization of the Hoover Commission and its recommendations. That was its purpose. It seems to me that would be stating the obvious.

Mr. HOFFMAN of Michigan. Certainly the Hoover Commission was created and it is tabbed in the minds of the people as recommending economy and efficiency, but when the committee was hearing the testimony on these various plans, especially on one other, when the Assistant Secretary, I think it was—I will put it in the RECORD—was testifying, the most he would say for the plan was, no economy, but he hoped that sometime it would prevent some potential dangers there might be. There is no evidence supporting the thesis that there is economy or efficiency.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield five additional minutes to the gentleman from New York.

I wanted to ask this question also: Does the gentleman consider the functions of the Wage and Hour Administrator to be quasi-judicial in making his interpretations and decisions as to whether the law does or does not apply?

Mr. JAVITS. I consider some of those administrative decisions to be quasi-judicial, but I believe, the gentleman as a member of the Expenditures Committee has studied more in detail the internal operations of many more of the Government departments than I have, and knows that in every department, including Labor, one will find more quasi-judicial functions of the same character which are vested in the hands of the secretaries without question. That goes for Agriculture and for Interior. Therefore, I see no particular inhibition when we come to the Department of Labor.

Mr. HOFFMAN of Michigan. I call the attention of the gentleman to this statement from Mr. Hoover to the Honorable SAM RAYBURN. It is printed in the record:

> Similarly, the inclusion of general language like is contained in section 5 (a) (6) of the Reorganization Act of 1945 is intended to prevent the submission of any plan which imposes limitations upon the independent exercise of quasi-legislative or quasi-judicial functions, would in the committee's opinion be unwise.

Mr. Hoover expressly stated that they did not want to interfere with quasi-legislative or quasi-judicial functions. Those who are familiar with the operations of the wage-hour law have never doubted that the acts of the Wage-Hour Administrator were quasi-judicial and quasi-legislative.

Mr. JAVITS. May I ask the gentleman from Michigan if the major ground of his opposition is that this plan is not in accord with the recommendations of the Hoover Commission?

Mr. HOFFMAN of Michigan. The gentleman is correct, because I do not believe the Hoover Commission ever intended to interfere with those quasi-judicial or quasi-legislative agencies, independent agencies, and their functions that were set up by the Congress because Congress deemed it absolutely necessary to make them independent. For instance, the Tax Court; you would not think of putting that back into the Treasury Department again.

Mr. JAVITS. I hardly think that is quasi-judicial.

I should like to make one other point, that I hope as we go on with these Hoover Commission recommendations we will understand that we are dealing with a theory of Government. The Secretary of Labor and the President are sworn public officials. They are our Secretaries and our President, sworn to enforce the laws as the Congress has made them. If we do not like the laws, let us not take it out on the reorganization plans. I hope that fundamental principle will be established as we consider these plans and go on to others in the future.

Mr. KEATING. Mr. Chairman, will the gentleman yield?

Mr. JAVITS. I yield to the gentleman from New York.

Mr. KEATING. I would appreciate the views of both the gentleman from New York and the gentleman from Michigan on this point. The gentleman from Michigan is concerned, and properly so, about not interfering with the quasi-judicial functions of the Administrator. But I wonder if that is not taken care of by subsection (b), which provides that the transfer of functions to the Secretary shall not apply to the functions vested by the Administrative Procedure Act in hearing examiners employed by the Department of Labor. I would think that that applied to the hearing examiners of the Wage-Hour Division, and that their quasi-judicial functions would not be interfered with and would be subject to the same review they now have if this plan were put into operation.

But I appreciate the views of the gentleman from New York and the gentleman from Michigan.

Mr. JAVITS. I do want to yield to the gentleman from Michigan to state his views, but I would like to state mine very briefly.

I assume the basis of the argument against this plan probably is that administratively, through the influence which administration has over subordinate officials, it would disturb their judgment and make them do things which they otherwise would not do. There is no question about the fact as the gentleman from New York says, there would be no effect on substantive powers of quasi judicial officers or on their substantive responsibilities or obligations which are imposed by the established administrative procedures.

Mr. KEATING. But I would still think, if they made a decision which was

contrary to the law, it would be subject to review and reversal, the same as it is now, after this plan is put into operation.

Mr. JAVITS. Absolutely.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. JAVITS. I yield.

Mr. HOFFMAN of Michigan. I would be glad to go along with the gentleman and adopt that idea that we must have confidence in all these departmental heads if it were not for the reason that some years ago I was rudely awakened by a statement of a member of the Department of Justice, I think his name was Cox, who stated, in substance, that in years gone by it was the function of the Justice Department to examine the law and interpret the laws to enforce the intent of the Congress. But in more recent years the interpretation was for the purpose of doing the things that the Department wanted to do. You see, that makes it bad.

Mr. MULTER. Mr. Chairman, will the gentleman yield?

Mr. JAVITS. I yield.

Mr. MULTER. Is not the complete answer to those who are opposed to your view on this subject found in the recommendations of the Hoover Commission Report with specific reference to the Department of Labor contained in House Document No. 119, page 5, where the Commission says:

> We have urged in our first report that the foundation of good departmental administration is authority by the Congress for the Secretary to organize and control his Department. The granting by the Congress of independent authority to subordinates, of which there are several instances in the Department, should be eliminated.

Is not that the complete answer?

Mr. JAVITS. I think the question that has been raised is whether or not the Commission knew what it was doing when it said the Wage and Hour Division is—and I quote—"A functional unit of the Department of Labor." I happen to believe it did, and I gather that the gentleman thinks the same thing.

Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

Mr. DAWSON. Mr. Chairman, I yield 15 minutes to the gentleman from Texas [Mr. COMBS].

(Mr. COMBS asked and was given permission to revise and extend his remarks.)

Mr. COMBS. Mr. Chairman, first of all I want to express my gratification at the high plane on which these debates have been and are being conducted. We are dealing here with a matter which affects our people and will affect them for a long time to come. It is gratifying to see there is no middle aisle dividing the two parties as the Members consider this most important question of Government reorganization.

One speaker earlier made some reference to the action by the other body on these different reorganization plans. I call the attention of the membership to the statement of Senator JOHN MCCLELLAN, chairman of the Committee on Expenditures in the Executive Departments, of that body, which appeared in yesterday's RECORD at page 7263. At the beginning of the next page, with reference to the reports which have been submitted by the Senate committee, he said:

> The committee has reported favorably 10 of the plans—

That is the reorganization plans which the President has sent down—

> against which no resolution of disapproval was submitted.

I went down to the other end of the Capitol a few minutes ago and talked to Senator MCCLELLAN. He told me, and I am sure his memory is correct, that this Reorganization Plan No. 6 is one plan reported favorably by his committee, on which there is not even a resolution of disapproval pending in the other body for consideration. I thought the membership would be interested in knowing that.

Mr. Chairman, I believe in a proper reorganization of various departments and agencies of the Government to increase efficiency and cut down the cost of government. And while I do not favor every recommendation of the Hoover Commission, I have supported each reorganization plan as submitted by the President that has come to a vote here in the House. Incidentally, I want to remark in passing that to me the job done by ex-President Hoover, as Chairman of the Commission that bears his name, is an inspiring example of unselfish public service. And no matter whether one agrees with all the conclusions and recommendations which his Commission submitted, I think Mr. Hoover deserves the gratitude of the American people. Also, I think President Truman, in his efforts at reorganization, deserves the appreciation and gratitude of the American people for the forthright manner in which he has tackled the problem. And that regardless of whether one agrees with all of his recommendations and submitted plans or not. Reorganization is a tremendous task and a mighty important one. And we in the Congress rest under a very heavy responsibility to exercise good judgment and to consider every plan submitted without partisanship. The job we do will affect the American people for a long time to come. It is important to every citizen and we should not be motivated by partisan consideration.

Let me state here and now that I am in favor of the President's Reorganization Plan No. 6 of 1950 which we are now considering and that I will oppose House Resolution 522. Reorganization Plan No. 6 is in accord with recommendations of the Hoover Commission—it is, in my judgment, perfectly sound and reasonable.

Reorganization Plans Nos. 1 to 6, which were submitted to the Congress by the President under the authority we granted him in the Reorganization Act of 1949, are all directed toward the accomplishment of a simple and desirable end, namely, extending to various Cabinet officers full authority to organize and control the executive departments which they respectively head. I can see nothing mysterious or sinister in attempting to achieve this goal. It looks like just plain common sense to me.

I am sure that it would come as a shock to most of our citizens to hear that some Cabinet officers have no authority over some subordinates within their Departments. But, of course, it would not come as a surprise to those who have attempted to do business with, or to seek information from, various executive departments of the Government. Such persons have dealt, and I venture to say not in all cases successfully, with the almost impossible task of slaying the hydra of Washington, an executive department which has more than one head.

Recently while testifying before the House Committee on Expenditures in the Executive Departments, Secretary of Labor Tobin pointed out some of the difficulties arising in such a situation. He stated:

> As Secretary of Labor, people come to me with problems which confront them arising out of laws administered by the Department. It is confusing to them, and unsatisfactory to me, when I have to tell them that if their problem concerns child labor under the Fair Labor Standards Act I can listen to what they have to say, investigate the facts, and make appropriate disposition of the matter; but if it involves wages or hours, I must refer them to the Wage and Hour Administrator. Or, suppose an inquiry comes from an employer, or a union representing employees, who are working on a Government contract covered by the Public Contracts Act and are also engaged in work covered by the wage-and-hour law. If the inquiry relates to the employer's wage practices, I can give definite answers so far as the public contract work goes, but I can't give binding advice on whether the requirements of the wage-and-hour law are being met. Only the Wage and Hour Administrator can do that.

To my mind this is an intolerable and indefensible situation. In Government as in private business executive authority must be lodged somewhere. We cannot have accountability without responsibility.

Reduced to its simplest terms, plan No. 6 provides for nothing more than that the head of a Government department shall have the authority to run his department. This does not appear to me to be a strange concept to adopt. It would be strange indeed if we did not. We should no more expect efficient operation of Government agencies headed by officials with limited authority over the activities of operating personnel than we would expect successful operation of a business venture in which the vice president in charge of production can ignor directives of the company's board of directors if he so wished.

Failure of the Congress to approve plan No. 6 would mean a repudiation of basic tenets of the reports submitted by the Hoover Commission. The Secretary of Labor, no less so than any other Cabinet officer, should have full responsibility for the conduct of his department. It seems almost too obvious to state that within the Department of Labor, there must be a clear line of authority reaching down through every step of the organization and that no subordinate should have authority inde-

pendent from that of his superior. These simple precepts are implicit in the Hoover Commission report throughout. They are basic and ought to be followed in considering all reorganization plans. Of what value will the recommendations of the Hoover Commission be if we fail to give them practical effect whenever the occasion to do so is presented. Recently, while testifying before a Senate committee, ex President Hoover was asked the question as to whether or not he is satisfied with the progress so far made in carrying out the recommendations of his Commission. His reply was most gratifying and was, in substance, that under the circumstances he felt astonishing progress has been made. Now, if in a partisan spirit or otherwise we refuse to follow sound principles of reorganization and reject plans which are obviously sound and needed, the effect may very well be to delay or halt indefinitely reorganization of the Government.

In this unfortunate and trying cold-war period, inefficient governmental machinery is a luxury which we simply cannot afford. Military preparedness and a healthy industrial economy are vitally essential in these times but a businesslike governmental structure is equally essential if we are not to dissipate our resources and if we are to utilize to the fullest extent the vigor that is ours.

So it does seem to me that we have a great deal to show that we mean business in this reorganization effort, that we in the Congress are looking down the future years in our effort to improve the structure of the Government for the better service of the people, as good Americans and as representatives regardless of party.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. COMBS. I yield.

Mr. MADDEN. I want to compliment the gentleman on the outstanding contribution he has made toward the adoption of Reorganization Plan No. 6. I read some time ago where the Wall Street Journal had criticized the administration of the wage-hour law under the present set-up. I notice in the hearings that the gentleman from Georgia [Mr. LANHAM] called this fact to the attention of the committee at the time of the open hearings and stated that the Wall Street Journal in commenting on the administration conducted by the present wage-hour law set-up said the law was being enforced by a horde of snoopers. The Wall Street Journal calls the administrators of this law under the present set-up a horde of snoopers in an editorial. It seems to me, therefore, that if the Wall Street Journal condemns the present set-up and the Hoover Commission condemns it that we certainly should support the President's recommendation and adopt Reorganization Plan No. 6.

Mr. COMBS. I thank the gentleman for his contribution. He is certainly correct.

With the indulgence of the membership I think I can give a very good illustration of present conditions by citing something that came to my notice 2 weeks ago. I got a letter from a friend down home who is engaged as a consignee agent of an oil company in the distribution of oil and gasoline. He makes no deliveries whatsoever outside the State. He writes me that the lawyer of the oil company cannot tell him whether he is under the wage-hour law or not; that he took it up with the Wage and Hour Administration and they cannot tell him, as a matter of fact, nobody can tell him under the present situation.

I know an experience had by our colleague the gentleman from Georgia [Mr. LANHAM], some years ago, as a lawyer advising a client who was setting up a new company, as to whether he was under the wage and hour law; they went down to Atlanta and conferred with the Administrator and he said: "While I cannot bind anybody, I can only give you my best judgment, but I do not see how you could be under it." Three years later, the court held he was, and penalized him for penalties and back wages for 3 years and almost bankrupted his little company. If this sort of thing is to be avoided, we must centralize authority and fix responsibility.

The idea of centering this authority in the Department is to make it subject to the Procedure Act, reviewable by the courts. As it is the interpretation of the Administrator of the Wage-Hour Division is only for the purpose of applying the act, not for fixing the law which will be done by the courts under the Procedure Act which the Congress adopted a couple of years ago.

One effect of the Reorganization Act would be to put the authority and responsibility in the Secretary of Labor and make his decision subject to review by the court so that we can have a government of law and not of snoopers, if that is what the Wall Street Journal wants to call the investigators. Their main trouble is that they have no authority to promulgate proper rules, or interpret anything, so they just arrive at nothing.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. RICH].

(Mr. RICH asked and was given permission to revise and extend his remarks.)

Mr. RICH. Mr. Chairman, I was very much interested in the statement of the gentleman who just preceded me wherein he stated that he wants somebody to render decisions and he did not believe in the way the law was now being administered. May I ask him if he would get any better decisions if this were left to the Secretary of Labor?

We have come to a point in our legislating where we must do the thing that will be right and just as between men. Personally, I have last a great deal of faith in many of the administrators and the plans of our Government in the last few years of the New Deal. I do not know where we are heading in our country.

I think back a few years ago to the time when Hitler took charge of affairs in Germany. I look at the decisions that are being rendered in this country. It seems to me we are headed in the same direction that Germany was when Hitler took over the reins in that great country of Germany. What happened to Germany? A complete wreck of at one time a great Germany. We ought to look at the pages of history and get a lesson from those pages if we are to make this world a better place in which to live and, certainly, if we want this country of ours to be a better place in which to live. We must be more just as between men in the laws we make. We must ve very, very careful what we do because, in my opinion, the road we are traveling now will lead us eventually to downfall. That is too bad when our founding fathers left us such a great country. Through laws that we have enacted in past years we have developed this into the greatest country on the face of the earth, up to 1933, yet it is being destroyed day by day and hour by hour through the things that are presently transpiring in this country. We as legislators have a mighty rocky road to travel and I hope we cease following some of the trends we are on now.

Mr. Chairman, if the plan now pending before us would result in increased efficiency, I would be for it, if the plan that we are now considering would reduce the expenses of the operation of the Government I would be for it, if the plan we are now considering would result in unbiased decisions by the administrator in the Department of Labor it would be for it. However, the Secretary of Labor is diligently trying to have this legislation passed in order that he might determine a course of procedure in connection with the handling of the affairs of the Wage and Hour Division to his liking. Why is he interested in it to the extent he is? He ought to leave that up to the Congress and have the Congress determine the matter. That would be the proper course of procedure. He ough to keep his nose out of the Capitol and leave it to those who are charged with the responsibility of making these laws to govern the Department and the people.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. RICH. I yield to the gentleman from California.

Mr. HOLIFIELD. It is understandable that the Secretary of Labor is interested in this because he has the responsibility for what happens. At the present time he does not have the authority to supervise his subordinates, yet he is legally responsible to the Congress and to the President for what happens in his Department.

Mr. RICH. I thank the gentleman for his statement.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. RICH. Mr. Chairman, I yield myself five additional minutes.

Mr. Chairman, there is no Member of this House for whom I have greater respect than the gentleman from California who just made the statement in reference to the Secretary of Labor. The gentleman from California is bright, he is shrewd, he is smart, and I have a lot of respect for him. I have a lot of respect also for our chairman. I like all

of the Members. You know in committee we sometimes speak freely, we disagree, but we all have much respect for each other. I do not agree with them however. May I suggest to the committee at this time that we have been centering the power of Government in the hands of too few people. We are bringing into Washington a great deal of the power that belongs to the States and the local communities. We have been centering it down here in Washington, and I again refer to the statement I made a few minutes ago with reference to what happened in Germany when Hitler took over that country. It can happen here. He seemed to want all power and he got all power because he cracked the whip. We are doing the same thing here in Washington. We are giving to Presidential appointees in the Cabinet all power. Then the President has all power over them. They are going to do the things the President wants them to do or they are not going to be permitted to serve. They are going to resign their positions in order that the President of the United States can crack the whip over all the people of this country.

I do not care whether it is Mr. Truman or Mr. Hoover, the man you are lauding so greatly today as being a man whom you are now trying to emulate in trying to pass this legislation. I stood here in the House of Representatives in 1932 and I never heard a man torn to pieces in all my life as the Democrats in the Congress at that time tore Mr. Hoover apart. It was a crime and a shame, and you continue to do it. Yet now you come along and laud him as a great man, a man who served this great country and served it well. You have had a change of heart, that is fine. Hoover would give his last drop of blood to know that America was being handled for the best interests of the American people.

Mr. DAWSON. Mr. Chairman, will the gentleman yield?

Mr. RICH. I yield to my colleague, the distinguished gentleman from Illinois, a man whom I believe to be honest and honorable, who I am glad to have serve as the chairman of our committee; but I do not always agree with him.

Mr. DAWSON. Does the gentleman concede that any President, whether he be a Democrat or a Republican, would go beyond the laws or seek to go beyond the laws passed by this Congress?

Mr. RICH. I would not say that he should not do it, but I will say that we have a President in the White House now that does not believe in the Taft-Hartley Act. Congress has said that that is the law of the land, but the President says to the people of this country, "I am going to change the Taft-Hartley Act if it is the last thing I do." He is creating distrust and dishonor among the laboring class of people and the business people of this country who create the jobs. Whenever you tear apart the good, thinking people of this country, whether they be labor or whether they be employers, that is no way to get the country on a good, sound basis.

Have I answered the gentleman correctly? Does he agree with me?

Mr. DAWSON. No.

Mr. RICH. All right; I did not think the gentleman would agree with me.

Mr. DAWSON. I agree with the gentleman that there are many differences of opinion on the efficiency of the Taft-Hartley law, but the President will administer the Taft-Hartley law as it is put upon the books, and will seek to change it by law if he does not agree with it. That is his duty.

Mr. RICH. When the President of the United States has the Taft-Hartley law to act upon, does the gentleman believe honestly that he tried to enforce the Taft-Hartley law in the yast year?

Mr. DAWSON. I believe the President of the United States has done everything in his power to work under and with and obey every law passed by this Congress, once it became a law, whether he agreed with it or not, but if he did not agree with it, and it is up to him to execute it, it is his duty as President to bring it back to the Congress and ask Congress to take action on it.

Mr. RICH. There is where the gentleman and I differ.

The most casual observer can see that President Truman is not making a real effort to use the Taft-Hartley law. It is true, as my distinguished chairman has said, that it is his duty to enforce this law and every other Federal law. But the President has shown by his public utterances for several years that he is not in sympathy with the act and wants it repealed. That feeling has manifested itself in the administration of this act.

Look at the situation in the coal strike last winter. It was obvious that there was an emergency, since there were very few coal reserves and the amount on hand was getting smaller, due to the 3-day workweek imposed on the miners by John L. Lewis. Finally the law was evoked. The fact that we had a mild winter is what saved the President from a bad situation. Had a sudden and prolonged cold spell come upon the country, as it usually does each winter, we would have been in real trouble.

When Mr. Lewis was cited for contempt of court, it was obvious, so lawyers in whom I have confidence tell me, that the President's Department of Justice fell down on the job completely. They could have gone out and gotten hundreds of affidavits to show that Mr. Lewis, in defiance of the court's order, really called a strike. But they did not do this, which was the natural thing to do in such a case if they wished to win it and if they wished to really give the court all the facts. It must be very plain to anyone who is really objective in the matter that the President is not and will not give a vigorous administration of our present labor law, although it was passed by more than two-thirds in each House of Congress. I think the President is letting his feeling against this law and his abortive efforts to have it repealed adversely affect his duty to enforce this law.

Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. KEEFE].

Mr. KEEFE. Mr. Chairman, a good deal of heat that is quite irrelevant to the issue that is now before this Congress has recently been generated. I should like in a few moments, if I can, to get back to some basic reasoning in connection with the reorganization program that is now before the House.

I have studied this situation and of necessity must have a little information on it, because I have been privileged to serve on the subcommittee of the Committee on Appropriations that has handled the appropriations for the Department of Labor and the Wage and Hour Division for many years. I am very familiar with the actions of the Wage and Hour Division. I have tremendous confidence in its Administrator, Mr. McComb. I am rather surprised, therefore, to hear the rather specious argument presented that we ought to vote for this resolution in opposition to the reorganization plan because, it is contended, the administration of the present wage-hour law is inefficient and there are a lot of snoopers and this, that, and the other. That, to me, is not a valid or sound argument. It is just like a dog chasing his tail around in a circle. The fact of the matter is I think you have a good administration of the wage-and-hour law. You have as good an administration as it is possible to have under the appropriations which the Congress has made available for expenditure to the Wage and Hour Administrator. I would call your attention to this simple fact in connection with this program—first, the Wage and Hour Administrator and his department are presently under the general housekeeping authority of the Department of Labor. They operate under the appropriations made under the general appropriation to the Department of Labor. Every regulation and every decision which is made by the Wage and Hour Administrator is made as a result of the action of the solicitor of the Department of Labor who is at present, I believe, Mr. Tyson, and his group.

So when a request for information comes into the Wage and Hour Administrator for a determination under the past law or under the present new wage-hour law, the Wage and Hour Administrator has no separate, independent legal branch to advise him, but he gets his advice and information from the same source that advises the Secretary of Labor. I have found in my dealings and attempts to get interpretations of this new wage-hour law that they have been most meticulous in the Department of Labor in endeavoring to get me exact information which would permit me to advise those whom I have the honor to represent as to their status under the new law. I know in every case where I have taken it up, Mr. McComb has referred the matter to the Solicitor's office of the Department of Labor for an opinion. I have many opinions from that Department with respect to proposed regulations and interpretations under the present wage-hour law.

Therefore, is it not perfectly apparent that those who feel they will get a more advantageous administration of the law if it is left with the Wage and Hour Ad-

ministrator and with the line of authority not transferred to the Secretary of Labor that they are whistling in the dark because, after all, the over-all authority, whether it is written meticulously in the law, is with the Secretary of Labor and the interpretations which are made and the advice given by the Secretary of Labor through his legal arm, which is the Solicitor's office of the Department of Labor, is going to control in the administration of this situation and in the writing of rules and regulations.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. KEEFE. I yield.

Mr. HOFFMAN of Michigan. If that is correct, and if the Wage and Hour Administrator gets his interpretation of the law from the office of the Secretary of Labor, what is gained by transferring the functions to the Secretary of Labor?

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield five additional minutes to the gentleman from Wisconsin.

Mr. KEEFE. I had something to do with the attempt to form a reorganization of the Federal Security Agency in its direct relationship to the Department of Labor. I had something to do with the establishment of the regional offices set up throughout the country and the offices of the Department of Labor and the Federal Security Agency. All through that reorganization program, which was adopted in connection with an appropriation bill, the gentleman from Michigan, and every other Member of Congress, with the exception of a very few, stood with the gentleman from Wisconsin, who is now addressing you, in an attempt to define the line of authority from the Office of the Secretary or from the Administrator's office on down, and to define a line of authority in the regional offices which would permit decisions to be made by someone, so that when people came to these regional offices, there would be in the regional office set-up a line of authority similar to that which exists in the executive departments of Government.

The gentleman will recall that under a previous reorganization order which the President submitted, and which was approved, he transferred the Children's Bureau out of the Department of Labor to the Federal Security Agency. Under the social security law, the enforcement of the child-labor provisions of the Fair Labor Standards Act was invested in the Children's Bureau and it was originally in the Department of Labor. What happened? When it was transferred to the Federal Security Agency the President left the enforcement provisions as to child labor with the Secretary of Labor. He did not transfer them to the Wage and Hour Division. So that we have the Secretary of Labor charged with the mandatory obligation of enforcing the child-labor provisions of the law and the child-labor provisions in the present law are vested in the Secretary of Labor. Whereas authority for administering the wage-and-hour law is vested in the Administrator of the Wage and Hour Division. There became a cleavage of authority, both dealing with the same basic law. My concept of government, and I believe that is a fundamental concept that applies all through the reasoning of the Hoover Commission, is that there should be a direct line of authority, from the Secretary on down, in each of these executive agencies of Government, so that responsibility may be placed upon the agency head or the independent office head in the various departments of Government where we can look, and place fundamental responsibility. It is because of the fact that, as I read the Hoover Commission finding, that basic concept runs clear through them, that I believe an attempt to put into the hands of the Secretary of Labor overall authority for the administration of the wage-hour law and make the Administrator the administrative officer, which he is in any event—I do not care what you say about the present fineness and niceties of law, he is under the Secretary of Labor today. Mr. McComb very much favors this present reorganization plan of the President.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. KEEFE. Yes, I yield.

Mr. HOFFMAN of Michigan. The question I asked you was this, that inasmuch as you are arguing that the Wage and Hour Administrator, in making his legal or quasi-legal decisions, was always guided by the solicitor of the Department of Labor, what is the purpose, then, of this transfer of the Administrator, from a legal standpoint?

Mr. KEEFE. Do you agree that my statement is correct, that he is guided by the solicitor of the Department of Labor?

Mr. HOFFMAN of Michigan. You said he was. I am not questioning that.

Mr. KEEFE. All right, if you accept that as a premise, then the fact of the matter is you have got rather an odd situation in the law that ought to be corrected. You have a situation in the law, in my humble opinion, by which you have something stated in the law that pretends and presumes that the Administrator of the Wage and Hour Division has authority which in fact he does not have, and if he has it he does not exercise it. Thus, in my humble opinion, as one who is committed firmly to support the Hoover Commission report and its findings wherever I can, and to implement them into action as rapidly as I can, I have concluded that as far as I am concerned this proposal approaches as nearly as possible, in the reorganization of the Government, the implementation of the attitude of the Hoover Commission task force and ultimate findings that were made by the Hoover Commission. I feel that my action today would be derelict to those who have asked me to support the Hoover Commission finding if I failed to so vote.

Mr. HOFFMAN of Michigan. Will the gentleman yield again?

Mr. KEEFE. I yield.

Mr. HOFFMAN of Michigan. Have you been able to find anywhere in the testimony one word which says that the adoption of this plan will give us either increased efficiency or economy?

Mr. KEEFE. I have never felt that this law will give either increased efficiency or increased economy or anything else, unless we get proper administration. I can say to you, you will not get increased economy, because, as I pointed out when the appropriation bill was before the Congress, the budget that came to the Congress with respect to the Wage and Hour Administration was almost double the appropriation that was requested and granted for the fiscal year in which we are now operating. That was alleged to be due to the fact that the Congress passed, in the intervening time, this new wage-and-hour law, which called for more interpretation, more legal work, more inspection, and more inspectors. I am not charged with the responsibility for administering these laws. I can only assume, as far as my duty is concerned, that those upon whom the Congress has placed that responsibility will exercise their responsibility in the interest of the public. That was the attitude of the Hoover Commission, as I interpret it, when they suggested that this reorganization plan be adopted.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. KEEFE] has again expired.

Mr. DAWSON. Mr. Chairman, I yield 12 minutes to the gentleman from West Virginia [Mr. BURNSIDE].

(Mr. BURNSIDE asked and was given permission to revise and extend his remarks.)

Mr. BURNSIDE. Mr. Chairman, I rise to speak in opposition to House Resolution 522, and to speak in favor of plan No. 6.

Before I take up this resolution I want to say just a word or two about the Hoover Commission. We have been giving so much credit to Mr. Hoover today that I want to give some due credit to the six Republicans and six Democrats that acted, believe it or not, in a nonpartisan capacity, to bring out good reports for us to review here in Congress, and for the administration to make available, so that we could review them, by having competent men to work with us in the way of expert opinion in drawing up the right type of legislation.

One thing I would like to bring out is that the Citizens Committee, which was formed to try to put into execution the Hoover Commission reports, with members all over the United States—the secretary of that body, acting for that body, which is nonpartisan, has recommended that we do pass plan No. 6.

One thing that was very interesting to me when we were having these hearings was that nearly everyone who came before the Committee on Expenditures in the Executive Departments was very much in favor of the Hoover Commission reports and would like to see them adopted, but please do not adopt this one because this particular one hurts me. We have to get beyond these personal attacks and think about princi-

ples that vitally affect our Government and think about good administration and good organization. Due to that type of approach it became rather amusing to a group of us on the committee. There were seven of us who, when one of these "yes, but-ers" appeared before the committee, would automatically say to ourselves: "Same chapter, same verse"; and all of us could not help but get a laugh out of it.

This resolution would disapprove Reorganization Plan No. 6. Approval of these six plans would establish a uniform pattern of internal organization for the Treasury, Justice, Interior, Agriculture, and Commerce Departments, as well as the Labor Department. Let us stop here for just a moment and ask: Is it asking too much to want to reorganize the Government on sound business principles? Let us take the recommendation of men appearing before our committee claiming to be businessmen; let us take a concrete example. These businessmen in their own corporate organization like to have a fan-shaped organization, and that is what the Government is asking, that is, where you have a center and from that center radiate not more than 18 reporting agencies, reporting back to an administrator. If you have more than that number you do not have good administration.

I shall not go into the details of the plan. I am sure that the Members of this House are thoroughly familiar with them.

There is one matter, however, which I would like to discuss at this time. It has been alleged that the powers of the Administrator of the Wage and Hour Division under the Fair Labor Standards Act are quasi judicial in character and that the effect of the plan is to vest such quasi judicial powers in the Secretary of Labor who, under the organic act of the Department of Labor, is required to be prolabor in his attitude and administration. There are two points about this allegation, Mr. Chairman, that I want to talk about.

First, it is not true, Mr. Chairman, that the functions of the Administrator of the Wage and Hour Division under the Fair Labor Standards Act are quasi judicial in nature.

Let us make it clear that it is not quasi judicial in nature, and let me call your attention to our report:

> A cardinal feature of this reorganization plan, and the central point to bear in mind is that the wage and hour administrator has no quasi judicial duties.

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

Mr. DAWSON. Mr. Chairman, I yield three additional minutes to the gentleman from West Virginia.

Mr. BURNSIDE. Anyone who has made any study of Government would readily realize that quasi judicial means a body that has legislative, executive, and judicial functions. This set-up here does not have legislative, executive, and judicial functions; its determinations are not final. You would find in this set-up that in compliance cases the Government is a plaintiff. A plaintiff does not have quasi judicial powers. Let us get this clear. That is what they have been asking this question for, to confuse the House. Let us get it clear. This set-up here only has plaintiff's functions in enforcement or in compliance cases.

The report goes on to state:

> He acts in no way similar to any agency which would require a separation of prosecutive and judicial functions. His determinations are not final; he is in compliance cases a plaintiff in Federal court seeking appropriate enforcement for a violation of law. Reorganization Plan No. 6 does not carry with it the implication that the Secretary would receive thereby quasi judicial powers affecting wage-and-hours matters.

I want to follow that further. This matter, then, was gone into by the Committee on Expenditures in the Executive Departments during its hearings on House Resolution No. 522, the situation of the Administrator enforcing the Fair Labor Standards Act was thoroughly explained by the Solicitor of Labor, Mr. William S. Tyson.

I think I can do no better, by way of getting the true picture before the House on this matter, than by quoting from the record of the hearings. The matter from which I am going to quote can be found by members on pages 94 and 95 of the hearings. The quote is as follows:

> Mr. TYSON. The Administrator is the only one who can institute an investigation under the wage-and-hour provisions of the wage-and-hour law. He sends his inspector in to find out if the complaint is justified or not. In many cases he finds it is not. In other cases he finds that there are violations. If there are violations, then his inspector sends the case to his regional director, and we have nine regional directors. The regional director then decides whether or not he thinks it is a case that can be settled without taking it into court. If he thinks not, then he sends it to the lawyers and the lawyers institute a civil action if they find the evidence justifies it.
>
> On the other hand, if they find the violations are willful, they will send it over to the Department of Justice to institute proceedings before the grand jury and ask for a criminal indictment.
>
> Mr. RICH. If a man has disobeyed the wage-and-hour law and has done it deliberately, he can be incarcerated because of the willful act of not paying someone the wage that the wage-and-hour law states should be paid, where the individuals might have some kind of agreement among themselves that the employer is not to pay them the full amount that the wage-and-hour law would demand?
>
> Mr. TYSON. Congressman Rich, the situation is this: If it is a willful violation and a recommendation is made for criminal indictment, the person can be indicted. It is only a misdemeanor. In the first indictment the penalty is only a fine. It is only on the second indictment, where he is charged with violating the act for a second time that he can be imprisoned. The first offense is nothing but a fine.
>
> Mr. BONNER. The Administrator makes that ruling?
>
> Mr. TYSON. That is right, the Administrator.
>
> Mr. BONNER. On the first offense he has the authority to fine the man?
>
> Mr. TYSON. No; he has no authority; it is only the court. He sends it to court.
>
> Mr. BONNER. The Administrator then finds there is an infraction of the law?
>
> Mr. TYSON. He finds there is an infraction of the law.
>
> Mr. BONNER. He issues an order to correct it, does he not?
>
> Mr. TYSON. No; he does not. If the man will not comply with the law then, after this inspection where he has been shown that he is in violation——
>
> Mr. BONNER. I say, he issues a directive that he should comply with the law?
>
> Mr. TYSON. He asks him to, but he has no authority to direct. Then, if he refuses, he sends it into court.
>
> Mr. BONNER. If the employer says he has not violated the law and the Administrator insists that he has, then it goes to the court for decision?
>
> Mr. TYSON. That is right, sir.
>
> Mr. BONNER. You say that the Administrator has no authority to penalize the man?
>
> Mr. TYSON. That is right; he did not prior to the recent amendments. Under the recent amendments which were passed by the Congress last fall he has an additional authority which permits him under section 16 (c) of the amended act to bring a suit for back wages owed employees.
>
> Mr. BONNER. He does not have the authority to set a penalty?
>
> Mr. TYSON. No.
>
> Mr. BONNER. Then on appeal it has to go to the court anyway?
>
> Mr. TYSON. That is right.
>
> Mr. BONNER. Anyway, pro or con either side, it has to finally wind up in a court decision if it is a contest on the Administrator's decision?
>
> Mr. TYSON. That is correct.
>
> * * * * *
>
> Mr. BONNER. If this plan goes into effect then, he goes along just like he is functioning now, and it does not jeopardize the rights of either side to go into the courts; is that correct?
>
> Mr. TYSON. I think that is absolutely correct.

The other point that I want to make is that, as the Secretary of Labor pointed out in the statement submitted to the Committee on Expenditures in the Executive Departments by the Under Secretary, the Honorable Michael J. Galvin, is that at the present time the Wage and Hour Administrator, like all other officers of the Department of Labor, must carry out his functions in accordance with the Organic Act of the Department of Labor. All officers of the Department of Labor are bound to act in a manner consistent with the purposes of the Department as set forth in the Organic Act. But he is also, of course, bound to carry out his functions in accordance with the intent of Congress as set forth in the act which he administers, namely the Fair Labor Standards Act of 1938 and the Fair Labor Standards Amendments of 1949. Being an officer of the Department of Labor has not hampered the Administrator in administering the provisions of these two Acts in a fair and impartial manner. The Secretary of Labor pointed out that—

> If the transfer of functions provided for in Reorganization Plan No. 6 is approved the Secretary of Labor will, in administering the wage-and-hour provisions of the act, be bound by the same duty in this respect that the Administrator now has. Whether the Fair Labor Standards Act be administered by the Wage and Hour Administrator or by myself makes no difference in this respect.

We are dealing, Mr. Chairman, with a bugaboo which just simply will not stand the scrutiny of fair and impartial study on our part.

Finally, I would like to point out, Mr. Chairman, that the plan has the approval of the Administrator of the Wage and Hour Division himself. In his testimony before the House Committee on Expenditures in the Executive Departments Mr. McComb stated:

I understand there has been some testimony before you gentlemen in opposition to the President's proposal on the ground that the transfer of authority to the Secretary would be detrimental to the impartial administration and enforcement of the Fair Labor Standards Act. I want to say very plainly that I do not agree with that argument.

Otherwise, he states that he is in favor of and wishes to urge the House to reject House Resolution 522 and give its approval to Reorganization Plan No. 6 of 1950, in order that we can establish this principle of good administration for our Government. We will not save large sums of money by this change, but we can have excellent administration so that we may eventually save money for our taxpayers.

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield 3 minutes to the gentleman from West Virginia.

Mr. KEATING. Mr. Chairman, will the gentleman yield?

Mr. BURNSIDE. I yield to the gentleman from New York.

Mr. KEATING. The gentleman is a member of this committee, and has studied this problem. The Wage and Hour Division is now in the Department of Labor. Would the gentleman address himself to the question how the transfer of the functions of this agency to the Secretary would really affect the present situation other than in a purely administrative manner?

Mr. BURNSIDE. I think someone will speak to that point later. I would be glad to go into it, but the gentleman from California will speak about it later.

Mr. KEATING. If the gentleman from California is going to cover that point, I would be glad to defer my question.

Mr. HOLIFIELD. If the gentleman will yield, I will say that the gentleman's statement is correct. The functions will be placed in the Secretary of Labor purely from an administrative standpoint and will be redelegated back to the Wage and Hour Administrator. He so testified before us that he would do that. That is, of course, done in every department of Government. We are lining up all the departments of Government and placing all authority, all function, and all responsibility in the head of the department. He, in turn, as any good organization executive would do, delegates back to the different subordinate agencies the power and function necessary to perform their duties under the law.

Mr. KEATING. Specifically, am I correct in my understanding that, if this plan were adopted, it would not result in the decisions of the Administrator on quasi-judicial matters being subject to review by the Secretary of Labor prior to review by the courts, or whatever procedure is now provided in the Administrative Procedure Act?

Mr. BURNSIDE. In the first place, this is not a quasi-judicial body we are discussing. I gave you decisions over and over again here showing it is not even quasi-judicial.

Mr. KEATING. I think perhaps that is an unfortunate phrase. Perhaps that should go by some other name. But we do know that the Administrator does decide issues where both sides present their conflicting views.

Mr. BURNSIDE. Only as an administrator.

Mr. KEATING. They are subject to review under the Administrative Procedure Act in the courts.

Mr. BURNSIDE. That is correct, but you are shifting your action from administrative to judicial. The moment the court takes action it is a new case.

Mr. KEATING. My question is, Would the adoption of this plan in any way interfere with that procedure?

Mr. HOLIFIELD. No, it will not change any of the substantive features of the Administrative Procedures Act under which the Wage and Hour Administration hearing examiners now work.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield such time as he may require to the gentleman from New Jersey [Mr. WOLVERTON].

Mr. WOLVERTON. Mr. Chairman, the resolution now before us would, if adopted, set at naught the President's Reorganization Plan No. 6. I am not in favor of the resolution. I believe the plan should be adopted.

The President's plan, in general, transfers all functions of the Department of Labor to the Secretary of Labor. This, in my opinion, is in line with the general recommendations of the Hoover Commission. Is it true that there is some difference of opinion as to whether the Hoover Commission on Organization of the Executive Branch of the Government specifically recommended this specific plan as submitted by the President? But, whether it specifically did so or not, it is plain to me that it comes within the general purview of what was intended by the Hoover Commission. For this reason, I will support the President's plan as a fulfillment of the views set forth in the report of the Hoover Commission.

The House Committee on Expenditures in the Executive Departments, to whom was referred the resolution (H. Res. 522), made a full and complete study of the entire matter and has submitted its report to the House in favor of the President's plan. The report of the committee sets forth the reasons that brought it to a favorable conclusion.

The effect of Reorganization Plan No. 6 is, in general, to transfer to the Secretary of Labor all functions of all other officers of the Department of Labor. Certain restrictions on these powers are disclosed by reference to the Administrative Procedure Act. In this way independency of action on the part of hearing examiners is assured. Further, the power of the Secretary to delegate to subordinate officers and agencies the performance of his functions where desirable is provided for. Moreover, records, property, personnel, unexpended balances, and other funds may be transferred within the Department of Labor, whenever it is deemed necessary by the Secretary of Labor for the purpose of carrying out the provisions of this reorganization plan.

This reorganization plan will not ascribe to the Department of Labor any more powers, authority, functions, or responsibilities than it now possesses. In the main, this legislation will centralize authority, responsibility, and accountability in the Secretary. This action, of course, carries with it as its necessary concomitant proper delegation of powers and duties on the part of the Secretary.

The Commission on Organization of the Executive Branch of the Government, after a detailed study, emphasized in its initial report the urgency for reposing "full responsibility for the conduct" of a department in its secretary.

In the report on general management and its accompanying task-force report on departmental management, the Commission on Organization of the Executive Branch of the Government went to considerable trouble to make plain the urgency in our Government for sound business management and unmistakable delineation of authority in a clear line of authority reaching down through every step of the organization. The gist of their viewpoint, concisely stated, is: If the superior is responsible and accountable, then no subordinate should have authority independent from that of his superior.

Reorganization Plan No. 6 thus seems to coincide with the recommendations the Commission on Organization indicated necessary for internal departmental management. The adoption of this plan by the Congress will result in unification of departmental organization which over a period of years, I trust, will reward with economy of operation. Then, also, the resultant centralization of responsibility and authority should effect rich returns through immediate improvement of efficiency and service.

For the above reasons, I give the plan my support.

(Mr. CHRISTOPHER asked and was given permission to extend his remarks at this point.)

Mr. CHRISTOPHER. Mr. Chairman, on February 7, 1949, while H. R. 2361 was under consideration in this House, I made the following remarks:

I am going to vote in support of the Hoover report, but I am going to do so with full knowledge of the fact that we are passing on to the President a job that Congress has repeatedly tried to do and failed. I am supporting the measure because I think the recommendation of the Commission ought to be carried out in the interest of economy and better service. The only thing that gives me concern in the enactment of this bill is the knowledge that no matter what kind of reorganization measure the President may propose he is sure to be condemned by part of the people on the ground that it did not go far enough and by everybody else on the ground that it goes too far. In other words, whatever measures are offered will lead only to criticism.

Perhaps I was too pessimistic at that time but I still find that several of the reorganization measures submitted by the President are being severely criti-

cized. I supported the recommendations of the Hoover Commission in the beginning and I feel that this House should lend its support to the end that the recommendations of that Commission may be put into effect. They were the result of many months of hard work and conscientious study by a nonpartisan commission.

If applying their recommendations to the different departments of the Federal Government will give us better service at less cost to the taxpayers, they should be adopted as soon as possible. I am in favor of the adoption of recommendation No. 6 and shall vote for it on final roll call.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. LUCAS], and if he so desires, I will yield him another 10 minutes.

Mr. LUCAS. Mr. Chairman, so much has been said about the proposal before us, and so many other subjects, that I hesitate to take the floor to discuss this matter, which should be approached in a dispassionate way.

Of course, I do not subscribe to all the views which have been expressed here by those who are on my side in this debate. I dislike the fact that politics have been injected into the question. My purpose in introducing House Resolution 522 was as a result of the so-called Lucas bill being adopted in the last session of the Congress, which bill had to do with the field of minimum-wage legislation. I was called upon by many of my fellow Members in the Congress to express their views in this regard when the President offered Reorganization Plan No. 6, which would set aside and undo much of the work which the Congress accepted last year. Whether it be my chick or not, when I looked in the paper last October 26, I saw a great big picture of the President and Philip Murray and William Green, as well as other labor leaders, taking great glory in the fact that the President was signing the new minimum-wage law. I say to the distinguished chairman, the gentleman from Illinois [Mr. DAWSON] that if this bill is my chick, it certainly was hatched by the President of the United States.

Mr. Chairman, there are serious questions involved here which I think should be treated calmly and dispassionately. I say that because we are undoing and repealing what the House did last year in passing the Lucas bill. We are doing it by indirection because this reorganization plan of the President is legislation and nothing else. It is not reorganization.

The Members who have spoken in favor of this reorganization plan time and time again have used the words "subordinate agencies." Why do they do that? Because the Hoover Commission says that the duties of subordinate agencies should be given over to the chiefs of departments. They say that the responsibility being in the chief of the department, he should be given the power to administer the laws. I agree with this. But the Wage-Hour Administrator is an independent officer of the Government, and not a subordinate of the Secretary of Labor. He is independent because the Congress of the United States has on three occasions declared him to be independent.

In 1937, when the bill was first before Congress to create an agency of the Government to administer a wage-hour law, the House of Representatives, it is true, set up this power in the Secretary of the Department of Labor and gave it to the Secretary of Labor. But the Senate had set up a separate agency entirely, a board, to administer this law. The conferees, in reconciling the differences between the two Houses, compromised this problem and made an agency within the Department of Labor, under an independent Administrator, appointed by the President, answerable to the President and to the Congress; not answerable to the Secretary of Labor. The agency to perform these functions was placed within the Department of Labor for housekeeping purposes only. It could as well have been placed in the Commerce Department, because it affects as much business as it does labor. No one can deny that the payroll of a businessman is the lifeblood of the business. While it was for humanitarian purposes that the Congress adopted the law to raise minimum wages in interstate commerce, also it was for business reasons that business wanted the law passed, because there were sweatshops in the country competing with fair businesses which were paying less than a decent wage. It was felt necessary that a national law should be enacted in order to force those sweatshops to raise their minimum standards. So the Commerce Department could as well have been placed in charge of this legislation. But the House and the Senate, in reconciling their differences, set up an independent agency in charge of an Administrator, appointed by the President, answerable to the President and to the Congress, and not to the Secretary of Labor.

In 1947, under the old Reorganization Act, the President submitted a plan to take those powers away from the Administrator of the Wage and Hour Division and give them to the Secretary of Labor. What did the Congress do? The Congress immediately voted down that plan. The Congress voted down that plan because it was felt that the Secretary of Labor, being by the organic act establishing the Department of Labor, charged as a partisan of labor, was not the proper person to enforce this law impartially as affecting both employees and employers.

We are beset with the same proposition again today, where the President has said that the Secretary of Labor should enforce this law, but it is my contention that the law should be enforced impartially and in an unbiased manner, because it affects the operations of every business in the land. It has been said, "What is the difference? Both of those fellows down there are scoundrels anyway, and we cannot get any worse treatment if it is placed in the hands of the Secretary of Labor than in the hands of the Wage and Hour Administrator."

I do not subscribe to any such theory. I think each is doing his best to perform the duties entrusted to him. I contend, however, that the duties which are entrusted to the Secretary of Labor are those which are partisan, in the sense that the Secretary of Labor is duty-bound to represent the workingmen in our governmental functions, and the Congress set up the Administrator of the Wage and Hour Division to administer impartially a law affecting both labor and management and the public, who, after all, are paying the bill.

The CHAIRMAN. The time of the gentleman from Texas [Mr. LUCAS] has expired.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield the gentleman such further time as he may desire.

Mr. LUCAS. It may be of interest to those of you who represent labor districts to know that even the labor leaders are not too enthusiastic about this plan. It is my information that some of the labor leaders have questioned the advisability of enacting this reorganization plan into law, because they feel that if the present friendly administration places this law in the hands of an official who is bound to take labor's view, then an unfriendly administration might come along and put it in the hands of, for instance, the Department of Commerce. I say to you, when we come to the question of deciding who shall determine the interpretations of various sections of the wage-and-hour law and take that power out of the hands of one who is bound by law to be impartial and place it in the hands of one who is bound by law to be partial, we are in effect taking a step which will destroy the confidence of the people in their Government.

Now, let us talk about some of these definitions which under the law must be determined by the one who enforces this law. Under the wage and hour law there are many sections which the Congress back in 1937, in passing the original act, and in 1949, when we passed the amendments known as the Lucas Act, simply could not define; they were not susceptible of legislative definition. I speak of the "area of production" provision; I speak of the regulations regarding executive, administrative, and professional employees. Another definition was that of learners, apprentices, and handicapped people.

The definition of these terms, for instance, of "executive, administrative, and professional employees" must be made by the Administrator. In the past the Court with consistent regularity has supported the definitions of the Administrator; his definitions have been accepted by the courts. In making his definitions the Administrator had to decide between the contentions of labor on the one hand, which wanted the terms defined narrowly, and those of management on the other hand, which wanted them terms defined broadly. The Administrator struck a fair balance between the conflicting contentions and issued impartial definitions which avoided the extremes of either group.

This "area of production" definition caused us a great deal of trouble. We tried to redefine it last year but finally decided to allow it to stand as it was in order to permit the existing defini-

tions, which had in effect been fair to both sides, to continue in force. This is a definition which is of especial interest and importance to farmers. The first definition had been declared invalid by the Supreme Court because it was based upon the number of employees, I think it was, employed in the processing plant, but after working on a new definition the Administrator determined on a rather fair definition which was based largely upon two factors, the distance of the processing plant from the farms where the commodities were grown, and the size of the towns in which the processing plant was located. This definition is necessarily discriminatory in some cases, but it was thought to be the fairest that could be worked out, and the Congress did not choose in the Lucas bill to change that definition. Let me call your attention to what the Secretary of Labor said regarding this "area of production" definition. I am reading from page 16 of the hearings on H. R. 2033, which was the Lesinski bill which after being changed was defeated by substituting the Lucas bill. Mr. Tobin in his testimony stated that "the unworkable agricultural 'area of production' exemption should be dropped." Now, you who represent farmers in this House remember the fact that if you vote against House Resolution 522 you vote to place the administrative power under this law in the hands of one who believes that the "area of production" exemption ought to be dropped.

You are not only doing that, but the Secretary of Labor has committed himself in advance to a broadened definition and administration of this law. He said that he wanted it to cover every activity affecting interstate commerce, and when the question was put to him as to what business or occupation did not affect commerce, Mr. Tyson, his solicitor, spoke up and said: "Well, a barber shop, probably." So you can see that the Secretary of Labor wants to carry this law into every field of endeavor within the United States and its possessions.

One of the greatest fights we had in our debate on this legislation last year was in reference to the definition of retail and service establishments. You remember the pressure that was brought upon the Congress to exempt retail establisments and the reason for that was because there are not enough people working for the Government to go out and enforce a law which would regulate employment in every little retail store in the land.

How does Mr. Tobin look upon such a law? What does he think about such a suggestion? He says:

> Unjustified exemptions should be eliminated. Employees in large chains and department stores, for instance, should not be exempt.

And he goes ahead to clarify what he meant by that.

And those who support Mr. Tobin's view even come along and propose that every retail store should be covered by the law. There is no doubt in Mr. Tobin's complete statement that he wants to cover everybody in the land under this law. He stated that he felt every employee should get $1 an hour by law. Now, I am not opposed to employees making a dollar an hour or more, but I do oppose—and I think this Congress opposes—a legislative fiat that every employer in the land shall pay every employee in the land $1 an hour. We know it is economically impractical.

So when we are transferring these powers, Mr. Chairman, from the impartial Administrator to the partial Secretary of Labor, we are put on notice in advance what the Secretary of Labor is going to do when he defines professional, executive, and administrative employees; we are put on notice what the Secretary of Labor will do when he defines learners, apprentices, messengers, and handicapped employees; we are put on notice when he says he wants to abolish the area-of-production exemption in the present law. So you are in effect voting to repeal the Lucas law when you vote against House Resolution 522.

I spoke about messengers, learners, and apprentices.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield the gentelman five additional minutes.

Mr. LUCAS. Mr. Chairman, the present law provides that these types of employees, learners, apprentices, mesengers, and handicapped workers, may be employed at less than 75 cents an hour upon the issuance of certificates by the Administrator—not the Secretary of Labor but by the Administrator. The Administrator has been impartial in acceding to the demand by these marginal employees for permission to work, although the labor unions have been very forcibly opposed to their employment. If the authority to issue the certificates is now turned over to the Secretary of Labor, it can be expected that he will bow to the wishes of the labor unions.

There is still another way in which the Administrator determines which employees are subject to the requirements of the law, and that is by issuing interpretations concerning the meaning of various terms and phrases used in the law. These interpretations are his determinations as to which employees are engaged in interstate commerce or the production of goods for interstate commerce and which employees come within the provisions of various exemptions such as those granted to agricultural labor and retail and service establishments. In the recent amendments to the wage-and-hour law many of those exemptions were rewritten, and although the Congress provided these exemptions as clearly as it was possible legislatively to draft them, the Secretary, if granted this power, may be expected to interpret them in a biased manner in favor of labor unions. Of course, it is his duty to represent the workingmen in the Government.

I want to turn now to the Hoover Commission recommendations with reference to this suggestion. You know, ex-President Hoover and those who were members of the Commission, including our two distinguished Members of this House, did not have time to do all of the studying and make all of the investigations necessary to draft these recommendations. They had task forces—that is what they call them, task forces—to go out into the various departments and make these studies. The task force that studied the Labor Department was headed by Dr. George W. Taylor who is professor of labor relations in the University of Pennsylvania, and former chairman of the War Labor Board.

Mr. HOLIFIELD. Mr. Chairman, the gentleman does not want to make a statement that is in error, I know. Dr. George Taylor was a consultant, an outside consultant, and not head of the task force.

Mr. LUCAS. At least Dr. Taylor signed a report to the Hoover Commission. And in his letter of transmittal to Congress, dated March 11, 1949, Mr. Hoover stated that the Commission wished to express its appreciation to Professor Taylor for his cooperation. Professor Taylor is widely regarded by labor unions as a warm friend of organized labor.

What were the basic considerations which Professor Taylor said should govern in any reorganization of the Department of Labor? As his statement is far more eloquent than any summary I could give you, I beg the indulgence of the Committee to permit me to read what he had to say in part:

> NATIONAL POLICY AS RESPECTS THE RELATION BETWEEN THE DEPARTMENT OF LABOR AND LABOR UNIONS
>
> Previous mention has been made of the relation between labor unions and the Department of Labor as one of the three fundamental areas that need investigation, and it was then suggested that the tripartite task force might best be able to operate in this area. It would appear that such a task force might be assigned the responsibility for considering just what role the Department of Labor should play. Any determination in this regard would dictate, in no small measure, the functions that should be assigned to the Department of Labor.
>
> The legislation of March 3, 1913, which created a separate Department of Labor, also stated its purposes, in general terms, as follows: * * * to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment.
>
> It is of the utmost importance to recognize that these purposes were expressed at a time when wage earners were largely unorganized. No Wagner Act was on the statute books. Collective bargaining had not received legislative approval as the sound method for determining hours, wages, and working conditions.
>
> The generally stated purposes of the Department of Labor are substantially the same as the general purposes of most labor unions. Since most employees look to the unions rather than to the Department of Labor for improvement of their conditions of employment, the Department and the labor unions may be expected to cooperate closely in seeking to achieve the stated purposes of labor unions.
>
> In line with such reasoning the Department of Labor has been widely looked upon as the advocate of organized labor in the Government—except perhaps by organized labor. Experience has shown the need for an avenue of consultation between the Government and the labor unions—and even through which union participation in many

governmental matters may be secured. This raises the question: Should the Department of Labor be developed primarily as the representative of organized labor in the Government? If so, then the governmental functions assignable to administration by the Department of Labor would be the ones not incompatible with such a position.

On the basis of experience it would appear that the Department of Labor cannot be a vital agency as long as it is expected, in various quarters, to be an advocate of labor interests in conformance with its legislative charter, and at the same time an impartial administrator of the national labor policy in the public interest.

What does Dr. Taylor recommend? He says this:

A task force made up exclusively of public representatives working with the help of specialists and with the advice of labor and management assistance might very well prove to be adequate for considering one of the three major aspects of the problem previously mentioned—administration of legislation for social security for all citizens and for economic security of wage earners. Although organized labor has a vital concern in the administration of these laws, so do all wage earners as well as citizens generally. On the other hand, it cannot be casually assumed that all would be well if the administration of these laws were concentrated in a new Department of Welfare. Minimum-wage legislation, the Federal employment service policy, and the administration of unemployment benefit plans impinge directly upon the conduct of collective bargaining.

We know this only too well.

These and similar matters should be assigned for intensive study by a task force adapted to the needs of the case.

Procedures for the study of how to administer the Government's policy respecting regulation of collective bargaining present entirely different needs, especially since the policy itself is highly uncertain. The procedures also have to be devised in light of the dilemma about the Department of Labor.

He admits it is a dilemma.

Is this department to be developed as the representative of organized labor in the Government or is it to become a sort of ministry of labor charged with impartial administration of labor legislation in the public interest?

So Dr. Taylor recommends to the Hoover Commission, which in turn by reference recommends to the Congress, that there should be a study of this Department in order to get impartial enforcement of the laws the Congress has passed.

I now yield to my distinguished fellow member of the Committee on Education and Labor, the gentleman from Ohio [Mr. BURKE].

Mr. BURKE. May I ask the gentleman to return to the citation of the testimony of the Secretary of Labor before the Committee on Education and Labor in the case of the minimum wage law? Is it not true that subsequent to the hearing at which the Secretary appeared the phrase "operations affecting commerce" was written out of the law in every place where it occurred, and in both bills, both the committee concept and the Lucas substitute, the words "operations affecting commerce" were not part of the bill and are not part of the law at the present time?

Mr. LUCAS. That is right. The phrase "affecting commerce" was stricken from the bill on my motion in executive session, but that does not change the expressed attitude of the Secretary of Labor when he says that he wants that coverage in the law.

That is the reason I did that. No, it is not presently in the law. But the Secretary of Labor endorsed it, which means that he would carry the coverage of this act everywhere he possibly could, and he would like to see it cover all the activities affecting commerce. The gentleman cannot deny that.

Mr. BREHM. Mr. Chairman, will the gentleman yield?

Mr. LUCAS. I yield to my colleague on the committee.

Mr. BREHM. In other words, it was not taken out on the recommendation of the Secretary of Labor.

Mr. LUCAS. No, it was not taken out on the recommendation of the Secretary of Labor. He would like to have seen it remain in the law.

I yield to the gentleman from New York [Mr. KEATING].

Mr. KEATING. Was the reorganization plan to which the gentleman referred, which was sent to the Congress in 1947, and rejected at that time I believe in the House by a voice vote, precisely the same as the plan which is now before us?

Mr. LUCAS. I am not familiar with that. I cannot answer that definitely. I know in this regard it was the same: It transferred all the powers of the Administrator of the Wage and Hour Division of the Department of Labor to the Secretary of Labor. In that regard it is the same.

Mr. KEATING. Does the gentleman feel there would be any substantial and practical difference if this plan were adopted from the situation now obtaining as regards the Administrator of the Wage and Hour Division still clearing most of his major decisions through the Secretary of Labor? Does not the gentleman feel that procedure is now taking place?

Mr. LUCAS. Oh, I do not feel so, sir. The Administrator of the Wage and Hour Division does not have to report to the Secretary of Labor. He is an independent officer appointed by the President, and he makes reports only to the President and to the Congress. He is not subordinate to any officer except to the President himself. Those who continue to refer to the Wage and Hour Division as a subordinate agency within the Department of Labor simply are not realistic about it and have not looked at the law. The Wage and Hour Division is not a subordinate agency nor is the Administrator of that Division subordinate to the Secretary of Labor.

The report of the majority recognizes that fact.

Therefore, my friends, in the interest of good government, impartial government, I urge you to join with me in passing House Resolution 522.

(Mr. LUCAS asked and was given permission to revise and extend his remarks.)

Mr. DAWSON. Mr. Chairman, I yield 30 minutes to the gentleman from California [Mr. HOLIFIELD].

Mr. HOLIFIELD. Mr. Chairman, if I felt like the gentleman from Texas, whom I greatly admire, I would certainly recommend that the resolution be approved. I think the gentleman has gone far afield to find reasons for his opposition to this plan. I think he has conjured up a great many hobgoblins of fear, distrust, and suspicion of Government officials who will be under their oaths of office obligated to conform to laws which Congress has passed in the administration of the Wage and Hour Act and other related acts which come under the Department of Labor. Therefore, I believe my prepared analysis and comments on this plan will refute a great deal of his fears and suspicions and show at least that there are reasons to believe that they are groundless. I would prefer to finish my prepared analysis first, and then yield for questions, if the membership will permit.

First, the Reorganization Plan No. 6 which transfers to the Secretary of Labor all functions of the Department with authority to delegate, provides for an administrative assistant secretary and follows the basic recommendations of the Hoover Commission. A great deal of talk has been brought up about Mr. Hoover. Let it be said for all time that Mr. Hoover was the chairman of a bipartisan commission of 12 members. He is the only living ex-President of the United States. He is entitled to commensurate respect for the wonderful record of public service that he has performed for the people of the Nation.

But the recommendations of the Hoover Commission are not specifically the recommendation of Mr. Hoover, or of any other one member of the Commission. They are the recommendations which have been agreed to by the majority of 12 men on the Commission. I think to be perfectly fair we should not let this question rise or fall on any judgment of Mr. Hoover as an individual. These recommendations which were given by the Commission set forth in its very first report, the Report on General Management, emphasize that the heads of departments must have full responsibility for the conduct of their departments.

REORGANIZATION PLAN NO. 6 CARRIES OUT BASIC RECOMMENDATIONS OF THE HOOVER COMMISSION

Reorganization Plan No. 6, which transfers to the Secretary of Labor all functions of the Department, with authority to delegate, and provides for an Administrative Assistant Secretary, follows basic recommendations of the Hoover Commission. These recommendations of the Commission, set forth in its very first report—the Report on General Management—emphasize that the heads of the departments must be fully responsible for the conduct of their departments, that they must have adequate staff assistance to achieve efficiency and economy in departmental operations, and that they should be authorized to organize and control the administration of their departments.

The task force of the Hoover Commission, in its report on Departmental Management, has documented and underscored these principles of good management. The relevant recommendations of the Hoover Commission and its task

force are presented in the committee's majority report approving Reorganization Plan No. 6 of 1950—House Report No. 1907, Eighty-first Congress, second session, pages 4–6.

In accord with these basic findings and recommendations of the Hoover Commission, the President has transmitted six reorganization plans to place full administrative authority and responsibility in the Secretaries of the Departments of the Treasury, Justice, Interior, Agriculture, Commerce, and Labor. Previously this objective was realized in the case of the Post Office Department by Reorganization Plan No. 3 of 1949, and in the case of the State Department by Public Law 73 of the Eighty-first Congress.

The attention of the Members is called to the fact that the basic recommendations for all departments stressed in the first report of the Hoover Commission are restated specifically in the Commission's Report on the Department of Labor. Thus, the Commission states, in regard to that Department—page 5:

> We have urged in our first report that the foundation of good departmental administration is authority from the Congress for the Secretary to organize and control his Department. The granting by the Congress of independent authority to subordinates, of which there are several instances in the Department, should be eliminated.

This statement is clear and unequivocal. All of us who are sincerely committed to the basic principles of organization proposed by the Hoover Commission should support Reorganization Plan No. 6.

In testimony before the committee this position was reaffirmed by our very first witness, Mr. Robert L. L. McCormick, research director of the Citizens Committee for the Hoover Report. Mr. McCormick, who also had a position of responsibility under the Hoover Commission itself as assistant to Mr. Hoover, testified unqualifiedly in favor of Reorganization Plan No. 6. Speaking for the Citizens Committee, he stated:

> There is no question but that Reorganization Plan No. 6 directly follows through on the general recommendation of the Commission. (Hearings on Reorganization Plan No. 6 of 1950, p. 3.)

Opponents of Reorganization Plan No. 6 appear to have grounded their objection solely on the fact that the Wage and Hour Division, a unit within the Labor Department, would be placed by this plan under the administrative control of the Secretary of Labor. To get around the clear evidence that the Hoover Commission recommended the reorganization now before us, these opponents have asserted that the Hoover Commission did not properly understand the role of the Wage and Hour Administrator. They have said that the Commission erred in regarding the Wage and Hour Division as a functional unit of the Department of Labor, rather than as an independent agency. The fact is, of course, that the Wage and Hour Division is not an independent agency. Congress placed it under the roof of the Labor Department. At the same time the Congress did not make the Wage and Hour Administrator fully answerable to the head of the household—the Secretary of Labor. The uncertain and ambiguous position of the offspring reflected a compromise, when the Fair Labor Standards Act originally was passed, between the Senate proposal for an independent board and the House proposal that the administration of the act be vested in the Secretary of Labor.

A dozen years of administrative experience, reinforced by the findings of the Hoover Commission, have demonstrated that this kind of makeshift arrangement does not comport with the principles of good management. We hold the Secretary of Labor responsible—the public holds him responsible—for the proper conduct of his department. In that department we have placed the Wage and Hour Administration. What is a more simple and common sense matter than that the Wage and Hour Administrator, as an operating unit of that department, as a member of the household, should be responsible to the Secretary of Labor?

Aside from the need, repeatedly stressed by the Hoover Commission, of removing independent authority from subordinate officials within a department, we cannot now even hold the Wage and Hour Administrator fully responsible for the administration of the Fair Labor Standards Act. We have charged him by law with administering those provisions relating to wages and hours and we have charged the Secretary of Labor by the same law, with administering the provisions relating to child labor.

Secretary Tobin, in testimony presented to our committee, pointed out the difficult administrative position in which he finds himself. The Secretary said—hearings on Reorganization Plan No. 6 of 1950, page 89:

> The situation of the Wage and Hour Administrator in the Department of Labor is peculiar, to say the least. The Department has responsibility under a number of statutes, for administering provisions relating to labor standards. These statutes include, in addition to the Fair Labor Standards Act, the Walsh-Healey Public Contracts Act, the Davis-Bacon Act, and certain provisions of the National Housing Acts, the Federal Airport Act and the Hospital Survey and Construction Act. The Secretary of Labor as the head of the department, is held responsible by the public and, I venture to say, by the Congress for the administration of each of these labor standards provisions. In the case of all but a part of one, he has full authority as well as responsibility in this respect. In the case of the Fair Labor Standards Act, while he is held responsible for all of the provisions of the act, he has full authority only with respect to the child labor provisions. He does not have full authority with respect to the wage and hour provisions of the act. These provisions are independently administered by the Administrator of the Wage and Hour Division.

How this divison of authority and responsibility works out in practice was described by the Secretary in the following words—page 89:

> Although we have done as much as we can to coordinate administration of the child labor and wage and hour provisions of the Fair Labor Standards Act, there are problems we cannot solve under the present division of authority between the Secretary of Labor and the Wage and Hour Administrator. For example, when a Department inspector goes into an establishment, finds violation of both the child labor provisions and the wage and hour provisions, and attempts to secure compliance with the act, two actions must be brought in the courts if the employer refuses to come into compliance with the act. The Administrator cannot enforce compliance with the child labor provisions in the courts. Nor can I, as Secretary of Labor, enforce in the courts compliance with the wage and hour provisions. Accordingly, in a situation such as I have described, an action must be brought in my name to enforce the child labor provisions and a separate action must be brought in the name of the Administrator to enforce the wage and hour provisions. So, the employer is faced with two suits instead of only one as would be the case if Reorganization Plan No. 6 were in effect. This is needless and burdensome on him and on us.
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> But let me carry the illustration a little further. If in the course of the investigation it becomes necessary to subpena an employee or any of the employer's books or records, the subpena must be issued by the Administrator if the desired information related to compliance with the wage-and-hour provisions; if it relates to the child-labor provisions, it must be issued by the Secretary. Such situations can only be construed by employers and employees as unnecessary harassments and can do much to undermine public confidence in the efficiency and effectiveness of administration of the Fair Labor Standards Act.

The Secretary and Administrator have worked cooperatively to overcome the handicap of a faulty administrative structure imposed by the law. Thus the Secretary, to avoid duplicating staffs, has delegated to the Administrator the larger part of his authority to administer the provisions of the Walsh-Healey—Public Contracts—Act. The wage-and-hour law and the Public Contracts Act are now administered by the same personnel, both in Washington and the field. And yet, the Administrator has ultimate authority over wages and hours under the one act, while the Secretary has ultimate authority under the other.

Reorganization Plan No. 6 will put an end to the division of authority without impairing delegation of authority, cooperative endeavor, and economical operation. Indeed, it will provide greater assurance of continued good administration in the future.

Opponents of this plan have fallen back on the familiar but fallacious argument that it is an attempt to circumvent or modify a basic policy of Congress. Let me say, first of all, that this argument is self-defeating. If we took it seriously, no reorganization whatever would be possible. The Reorganization Act of 1949, which is also a basic policy of Congress, giving the President a positive mandate to initiate reorganizations, would be an idle gesture. And the work of the Hoover Commission would count for nought.

In a valid sense, every reorganization plan changes some policy of Congress; otherwise it would be simply an administrative action without coming before this Congress for review and approval. The Reorganization Act signifies that some previous actions of Congress were unwise or can be improved upon from the standpoint of administration. That is

why we are considering Reorganization Plan No. 6 today.

Now what has been the policy of Congress with regard to the administrative relationship of the Wage and Hour Administrator to the Secretary of Labor? As noted earlier, this relationship—an uncertain and ambiguous one—represented a compromise when the Fair Labor Standards Act was first enacted. Then in 1947 President Truman submitted a reorganization plan, pursuant to the Reorganization Act of 1945, which included a provision for the transfer of the functions of the Wage and Hour Administrator to the Secretary of Labor. That earlier plan was known as Reorganization Plan No. 2 of 1947. In his message transmitting it, President Truman outlined the administrative problem which the plan proposed to solve; he said in part—Eightieth Congress, first session, House Document No. 231:

The plan transfers the functions of the Administrator of the Wage and Hour Division to the Secretary of Labor to be performed subject to his direction and control. The fair labor standards bill was drafted on the assumption that the Wage and Hour Division would be made an independent establishment. As finally passed, however, the act placed the Division in the Department of Labor but was entirely silent on the authority of the Secretary over it. As a result, the Secretary has lacked an adequate legal basis for supervising and directing the affairs of the Division, and it has had an ambiguous status in the Department. The transfer effected by the plan will eliminate uncertainty as to the Secretary's control over the administration of the Wage and Hour Division and will enable him to tie it into the Department more effectively. This in turn will facilitate working out a sound combination of wage and hour, child labor, and related enforcement activities of the Department, and will permit the Secretary to simplify and strengthen the organization of the Department.

It is true, as our opponents say, that Reorganization Plan No. 2 of 1947 was rejected by the Eightieth Congress. What they fail to say is that the primary reasons for rejecting the plan had little connection with this particular portion of it. The real controversy was over the transfer of the United States Employment Service to the Department of Labor, as the hearings on this earlier matter will plainly show.

Reorganization Plan No. 2 of 1947, you will recall, was a three-package plan. In addition to the transfer of the functions of the Wage and Hour Administrator to the Secretary of Labor, it proposed also the permanent transfer of the United States Employment Service to the Department of Labor and coordination by the Secretary of Labor of the administration of labor laws relating to Federal works.

Whatever the merits of the earlier objections to transfer of the Employment Service, the controversy has now been resolved, for that transfer was accomplished during the Eighty-first Congress through Reorganization Plan No. 2 of 1949. Furthermore, the coordination of labor-law administration will be accomplished by Reorganization Plan No. 19 of 1950, to which no resolution of disapproval has been entered.

Thus it will be seen that one of the three proposals affecting the Department of Labor—the one previously and primarily the cause for rejection of plan No. 2 of 1947—was subsequently approved by the Congress; that another one is soon to take effect; and the remaining one, involving the transfer of functions of the Wage and Hour Administrator, will also take effect if we vote against the resolution of disapproval now before us.

It is neither a fair nor reasonable interpretation of past events to say that Congress has previously rejected the substance of Reorganization Plan No. 6. As already explained, this portion of the earlier plan was not considered squarely and fully on its own merits, and even on the portion relating to the transfer of the Employment Service, Congress in 1949 reversed its decision of 1947.

The administrative difficulties caused by the semi-independent position of the Wage and Hour Administrator within the Department of Labor, to which President Truman adverted in his message on Reorganization Plan No. 2 of 1947, cited above, were also emphasized by the House Committee on Education and Labor in its report on Fair Labor Standards Act amendments of 1949. This report—Eighty-first Congress, first session, House Report No. 267—pointed out that the original Fair Labor Standards Act, as passed in 1938, was an advance in a new field of Federal legislation, untried in practical application on a broad, national scale. After a decade or more of administrative experience, it was widely recognized that the act must be strengthened, improved, and clarified. Listing various difficulties in the original 1938 act, the committee report stated in part as follows—page 14:

Sixth, experience has shown certain weaknesses in present provisions for administration and enforcement of the act. For example, under the act there is divided responsibility for a carrying out of its provisions. Responsibility for carrying out most of its provisions rests in the Administrator of the Wage and Hour Division whereas the administration of the child-labor provisions as well as similar labor laws rests in the Secretary of Labor. We believe that the Secretary of Labor, as an officer of Cabinet rank, represents the most appropriate authority through whom may be coordinated the labor policies of the Government, both on a departmental basis and as to the executive branch as a whole. Centralized administration of this kind would seem to be dictated by sound concepts of efficient government, as pointed out by the Hoover Commission.

The fact that the bill—H. R. 3190—on which this report was made was superseded by a substitute or second Lesinski bill—H. R. 5856—and that the bill finally passed in the House was the Lucas version—H. R. 5894 as amended—cannot be taken fairly as an indication that the House repudiated the proposal to give the Secretary of Labor full control over his Department. The compromise legislation was offered to meet the objections to broadened coverage and other substantive matters. There was little, if any, debate in the House when it passed the Lucas substitute, on the question whether the Wage and Hour Administrator should be placed fully under the Secretary of Labor. The minority of our committee is stretching the interpretation of congressional interest very thin when it asserts that "the Congress answered this question with an emphatic negative"—Eighty-first Congress, second session, House Report No. 1907, page 15. The pages of the CONGRESSIONAL RECORD cited by the minority on this point contain no discussion whatever of the administrative relationship of the Wage and Hour Administrator to the Secretary of Labor.

The Senate Committee on Labor and Public Welfare, in its Report on the Fair Labor Standards Act Amendments of 1949—Eighty-first Congress, first session, Senate Report No. 640—made the following bservation with respect to the problem of administration, page 6:

The committee received a number of proposals by the Department of Labor for improving the administration of the provisions of the Fair Labor Standards Act of 1938. Among these proposals were suggestions to give the administering officials the authority to issue rules and regulations, to consolidate and coordinate the administration of the act under the Secretary of Labor, and to enable the administrative officials more effectively to enforce the act by supervising the payment of back wages owing to employees in accordance with the provisions of the act, and in appropriate cases, to bring court actions to collect such back wages on behalf of the employees.

The committee has not undertaken to pass upon the merits of the first two of these several proposals, although it would point out that with respect to the proposal to consolidate administration of the Fair Labor Standards Act under the Secretary of Labor this can as well be acomplished through the exercise by the President of powers conferred upon him by the Reorganization Act of 1949, in the light of the over-all reorganization of Government labor functions envisaged by the Commission on Organization of the Executive Branch of Government, as in special legislation. At this time the committee is confining its recommendations to the third proposal referred to above.

The Senate report from which I have just quoted was cited by the minority of our committee to support its opposition to Reorganization Plan No. 6. But what can be clearer than this observation of the Senate committee that the desired reorganization within the Department of Labor should be accomplished through Presidential initiative under the Reorganization Act of 1949? The President has exercised this initiative; we have a reorganization plan before us, and we should adopt it in the interest of good administration.

It seems that the opponents of this plan always put their foot down when it comes to good administration in the Labor Department. Somehow they cannot conceive that a Secretary of Labor will be a good administrator; they cannot conceive that he will be a man of integrity and an impartial, conscientious public servant. He cannot be, they argue, because the Department of Labor is obligated by its organic act to promote the welfare of wage earners.

Why a Secretary of Labor should be any less conscientious or more biased than a Secretary of Agriculture or a Secretary of Commerce, each of whom is obligated to promote the welfare of a broad segment of our population, I cannot, for

the life of me, understand. When Congress passed a law to put a floor under wages and a ceiling over hours, it intended to promote the welfare of wage earners in keeping with the public welfare, and it decided that the administration should be in the Department of Labor. There is no inherent conflict between this law and the statutory responsibilities imposed on the Department of Labor by the organic act of 1913.

Please note, furthermore that this organic law requires the Department of Labor, not the Secretary as such, to promote the welfare of wage earners. Every official in the Department, including the Wage and Hour Administrator is bound by that mandate.

Let it be noted, too, that promoting the welfare of wage earners is by no means the exclusive domain of the Department of Labor. Under the Sugar Act we have authorized the Secretary of Agriculture to make minimum wage determinations for sugar workers. The Department of Agriculture, I take it, was established to advance the interests of farmers. Shall we say that the Secretary of Agriculture, because of his concern for farmers, will not deal equitably as between sugar growers and workers?

Under the Merchant Marine Act we have authorized the Maritime Commission—soon to be under the Department of Commerce—to investigate employment and wage conditions in ocean shipping and to fix minimum wages. The Maritime Commission is concerned with the problem of an efficient merchant marine and is authorized to grant huge subsidies to ship operators. Shall we say that the Maritime Commission will not deal equitably as between ship owners and the men who run the ships?

The valid answer to such questions, I submit, is that the men who head these agencies and departments must be presumed to be honest and impartial public servants who have taken an oth to uphold the Constitution and laws of the United States and to be faithful in the discharge of their public duties. This goes for the Secretary of Labor as well as for other executives.

Opponents of Reorganization Plan No. 6, in the face of a clear and positive recommendation of the Hoover Commission in support of this plan, have dug up a typescript memorandum by George W. Taylor, professor of labor relations at the University of Pennsylvania, which discusses the problem of possible conflict between advocacy of labor interests and impartial administration in the Department of Labor. This memorandum was not a finding of the Hoover Commission; it was simply a set of tentative suggestions thrown on the table, to use Professor Taylor's phrase, as a basis for deciding how a task force might be set up to study the organization of the Department of Labor. The Commission decided not to set up a separate task force for that Department. A perusal of the memorandum indicates that Professor Taylor was mainly concerned with the problems of collective bargaining, an issue which is not before us in this reorganization plan.

The author of the resolution of disapproval has argued in testimony before our committee that the Wage and Hour Administrator should remain in his present semiindependent position because he acts as both prosecutor and judge in administering the Fair Labor Standards Act—hearings on Reorganization Plan No. 6 of 1950, page 40. As a matter of fact, the Administrator does not adjudicate cases. To the contrary, specific violations of the Wage-Hour Act are prosecuted in the Federal courts before Federal judges, and the Administrator appears as plaintiff, not judge.

Granted, the Administrator makes important determinations concerning coverage under the law and other rulings which affect employers. So does the Secretary of Labor under other statutory requirements. Indeed the Secretary of Labor, under the Walsh-Healey—Public Contracts—Act signs complaints alleging violations of the provisions of Government supply contracts, and he also adjudicates the same cases in an appellate capacity. Certain of these duties he has delegated to the Wage and Hour Administrator, who serves also as the Administrator of the Public Contracts Division. Under Reorganization Plan No. 6, the functions of the Administrator which would be transferred to the Secretary of Labor do not require greater impartiality and fairness than functions already vested in the Secretary by acts of Congress.

The whole matter of the fitness of the Department of Labor to administer statutes which affect the interests of employers and employees alike was considered by this Congress last year in connection with Reorganization Plan No. 2 of 1949, transferring the Employment Service to that Department. The same old arguments of bias were trotted out, as they are today. The Congress, I am happy to say, approved Reorganization Plan No. 2 of 1949, showing very clearly that it placed no credence in the argument.

Finally, we should take heed of the judgment of the Administrator himself, the man who has been entrusted with the actual administration and who can testify from experience. In his statement before the committee, Mr. William R. McComb, Administrator of the Wage and Hour and Public Contracts Division, Department of Labor, restated what he had told another committee of the House previously. His words are worth quoting—hearings on Reorganization Plan No. 6 of 1950, page 96:

> I do not believe it is sound administration to hold an official responsible for administration of the law and yet have important functions under the law performed by employees not subject to his direction or control. This has been the situation in the administration of the Fair Labor Standards Act in recent years. I am still of the belief that it is unsound in principle and unsatisfactory in practice.
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> The transfer of complete authority to the Secretary of Labor as provided in S. 653 is a satisfactory way to correct this anomalous situation. I believe that the placement of full responsibility in the Secretary's office will result in considerable improvement in the administration of the act. The Secretary has indicated in his testimony and has assured me that he intends to delegate his responsibility to the Administrator with full responsibility to act, subject to the Secretary's general direction and control. I believe this policy of centralized responsibility, to be exercised under the direction and control of the Secretary, will result in an effective as well as impartial administration of the law.

I want to comment on the memorandum which was quoted by the gentleman from Texas [Mr. LUCAS], where he made reference to a task force report. It was not a task force report. It was a memorandum by Professor Taylor, a consultant to the task force. It was not adopted by the Hoover Commission. It was not even given the dignity of a recommendation to cover the memorandum which Mr. Taylor threw on the table for their consideration.

The Commission did not decide to set up a separate task force as recommended by Mr. Taylor for the Labor Department. A perusal of the memorandum further will show that Professor Taylor was concerned mostly with the subject of collective bargaining and not with the wage-and-hour problem.

In voting on this matter, remember that a "no" vote is required if you are in favor of the Hoover Commission recommendation. If you are in favor of the President's plan of reorganization you will vote "no." If you are against the President's plan, and if you are against the Hoover Commission recommendations, then you will vote "yes" on the disapproving resolution which is before us. In other words, a "no" vote will sustain the plan.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield.

Mr. RICH. Is that not the way the New Deal is doing everything? In order to accomplish something you vote "no" and everything is just cockeyed?

Mr. HOLIFIELD. May I say to my friend we always enjoy his wit and his amiable personality. As a matter of fact the Congress directed this procedure.

Mr. DAWSON. Mr. Chairman, I yield such time as he may require to the gentleman from California [Mr. SHELLEY].

Mr. SHELLEY. Mr. Chairman, I rise in opposition to House Resolution 522 and in support of Reorganization Plan No. 6. I rise not only to oppose House Resolution 522 in its specific attack upon Reorganization Plan No. 6, but to express my most vigorous opposition to the underlying menace beneath the whole series of hamstringing resolutions which have appeared, and will appear, to jeopardize the chances for bringing to successful fruition the program of major reforms embodied in the Hoover Commission recommendations. I rise also to support not only Reorganization Plan No. 6 but to emphasize my support of the major part of those recommendations and the President's admirable and conscientious attempt to carry out the Commission's basic program through the series of reorganization plans which he has submitted.

The President has been not too subtly accused on the floor of the House this

afternoon of playing politics and using the Hoover Commission as a camouflage behind which to play his game. I say that the program of opposition, of which House Resolution 522 is only a part, is a far more deadly game, even were it true that the President's plans were colored by political motivations, a charge which I do not for one moment believe and strongly deny. It is the game of pressure groups and special interests each seeking to project and expand its niche of influence, motivated by desire for personal and private profit at the expense of the public welfare and at enormous cost in terms of economy and efficient administration of governmental affairs. It is the old philosophy of "the public be damned" seeking to penetrate to the floor of this House, and to corrupt the thinking of a body whose philosophy should be "the public be served."

The effect of submission to the pressures of every set of special interests who fear the results of efficient administrative programs is not hard to predict. The painstaking work and concentrated thought upon which the recommendations of the Hoover Commission and the President's reorganization plans were based will be nullified. The regime of confusion, inefficiency, and mismanagement which the program seeks to overthrow will continue to reign triumphant.

That is no imaginary danger, gentlemen. The Senate has already seen fit to reject four of the 21 plans originally submitted by the President during this session. More of them are being attacked in that body and in the House. Should we, without the gravest consideration, pass House Resolution 522 this afternoon we will set for ourselves a precedent which cannot but endanger the whole plan of the Hoover Commission as implemented by the President's individual reorganization plans.

One of the most important features of the master plan is embodied in the recommendations for streamlining the organization of the executive departments. Reorganization Plan No. 6 effectuates that streamlining for the Department of Labor. Other plans, with similar recommendations for other executive departments have either been submitted or are forthcoming. If we reject plan No. 6 now for one particular reason or set of reasons we must, in all consistency, apply that reasoning to other plans as they come before us.

Let us examine the principal argument advanced for rejecting plan No. 6. The quasi-judicial functions of the Wage and Hour and Public Contracts Division of the Department, as vested in the Division Administrator in his present independent status, are cited as necessitating continued separation of that Division from the administrative authority of the Secretary of Labor. It is stated that without such separation the wage-and-hour provisions of the Fair Labor Standards Act may be so administered as to be prejudicial to the interests of one of the parties at interest—the employer in this case, since it is charged that the Department of Labor is inherently biased in favor of the employee. Passing over without comment the implied slur upon the integrity of the holders of one of the highest offices in this Government—the present occupant of which has my most complete confidence—I turn to broader considerations.

I venture to assert that there is practically no law upon the statute books which does not require of its administrative agent quasi-judicial functions. The policeman on his beat exercises quasi-judicial authority in his determination of whether to make an arrest for any offense. Yet we do not deprive him of this authority, although it might conceivably be used in a manner prejudicial to the interests of the criminal. We repose in him a degree of trust worthy of the responsibility placed in him. The courts exist for the purpose of passing final judgment on how well he upholds that trust. This situation is exactly parallel to the problems in administering the wage-and-hour laws. The Administrator makes his initial determination—just as does the policeman. If the party charged with a violation of the law does not wish to plead guilty and accept this determination, then he may appeal to the courts.

Now, gentlemen, bearing this in mind and following the argument to its logical conclusion, if we accept the validity of prejudicial effect in administration as a sound basis for rejecting plan No. 6, then we should proceed to set up a new, independent administrative agency for every new piece of legislation which we place upon the books. Further, rather than centralize the administrative authority of the various departments, as this plan does for the Labor Department, and as the Hoover Commission has so strongly recommended, we should throw the whole Commission report out the window and continue to subsidize the chaos out of which we piously say we want order to emerge. That is exactly what we will do if we listen to the kind of reasoning which has been advanced today, in considering the many other phases of reorganization of the Government with which we shall have to deal.

Let me point out to you also that plan No. 6 will have no harmful effect on the present administration of the wage-and-hour laws. It does not abolish the position of Administrator—he will continue to perform his duties as before and as required by existing law. It will not change one iota of the procedures for administration which are now being followed and which are likewise fixed by law. It will simply channel the operations of this Division, and other agencies of the Labor Department, through the head of the Department of which it is a part. It will relieve the Chief Executive of part of the burdensome load of direct responsibilities which so hamper him in performance of his duties. It conforms admirably to the well known management principle which relates an executive's efficiency of performance inversely to his span of control—the number of individuals reporting directly to him.

The Labor Department is cited in the Task Force Report on Departmental Management as one of those characterized as the holding-company type. Their characteristics include restriction of the responsibility of the department head and heterogeneity of its constituent units. On page 5 of that task force report we find the statement that "in general we believe that such a structural arrangement is undesirable and should be eliminated wherever possible." Reorganization Plan No. 6 goes far toward eliminating the first of these undesirable characteristics. If we accept the plan we can be sure that we are in complete harmony with the spirit of the Hoover report and do no violence to its letter.

Mr. DAWSON. Mr. Chairman, I yield such time as he may require to the gentleman from Missouri [Mr. BOLLING].

Mr. BOLLING. Mr. Chairman, I want to go on record at this time as being 100 percent in favor of the President's Reorganization Plan No. 6 of 1950 and 100 percent opposed to House Resolution 522, introduced by the esteemed Congressman from Texas.

To my mind, plan 6 is a sensible and praiseworthy effort to put to wise use the President's powers under the Reorganization Act. It is a conscientious attempt to improve the administration and enhance the efficiency of one of the important departments of our Government. It is fully in accord and harmony with the recommendations of the Hoover Commission. Speaking frankly, I regard the objections raised to this reorganization plan as being very much in the nature of a tempest in a teapot.

But I would confine my remarks, Mr. Chairman, to the argument—if I may so dignify the objection—that the Secretary of Labor either could not or would not impartially and dispassionately administer the duties and functions of the Wage and Hour Administrator under the Fair Labor Standards Act, which duties and functions this plan would vest in the Secretary of Labor. It is alleged that this is true because the Secretary of Labor is required by law to be an advocate of the cause of workingmen.

Adherents of this view warn us, in effect, that if this plan goes through, we may picture the Secretary of Labor one day at his desk about to make a decision involving the Fair Labor Standards Act and musing to himself as follows:

> Now, let's see. It's true that I took an oath to uphold the Constitution and laws of the United States. And it's also true that the people expect me to be an honest administrator. But wait. The organic act of 1913 establishing the Department of Labor says its purpose is "to foster, promote, and develop the welfare of the wage earners of the United States." Therefore, what I must do is to consider merely what the employees want, and act accordingly.

Absurd? Of course it is absurd, and I submit, Mr. Chairman, that the charge of bias raised in opposition to this plan is unwarranted and is not justified by the realities of the situation.

There has been no charge of bias from any source, to my knowledge, in the Secretary of Labor's exercise of his duties and functions under the Walsh-Healey and Davis-Bacon Acts. Why should it be assumed that he would suddenly become biased if he were given certain duties and functions under the Fair Labor Standards Act?

It simply is not accurate to say that a fair administration of these duties and functions by the Secretary of Labor is incompatible with the organic duty of his Department to "foster, promote, and develop the welfare of the wage earners of the United States." This overlooks the fact that the act itself is a remedial and humanitarian statute, one of the purposes of which is to promote, within the framework of our processes, the interest of wage earners.

The most impartial and unprejudiced administration of this act that can be conceived would still, in the broad view, promote the interest of wage earners. Not to promote that interest would require the most flagrant disregard of Congress' intent when it enacted the law. This does not mean, of course, that in the administration of the act, and in the exercise of duties and functions under it, that there must be a slavish adherence to what, in any given instance, the particular wage earners might desire.

And so, rather than foreseeing a conflict between the Secretary of Labor's organic duty and his administering of the Fair Labor Standards Act, it would appear that the very best way he could fulfill his organic duty would be to administer the act fairly and honestly and in the manner that Congress intended.

But in any event, the charge is completely lacking in logic. It overlooks the fact that the organic act is applicable not only to the Secretary of Labor, but to every official and employee of the Department of Labor, including the Wage and Hour Administrator himself. If any conflict of duties did exist, then the Administrator has been living with it since 1938. Yet the opponents of the plan are sufficiently pleased with the way the Fair Labor Standards Act has been administered up to now that they tell us we dare not transfer the power. I say that they cannot have it both ways. They cannot tell us that the organic act would preclude impartial administration by the Secretary, and in the same breath contrast the fair and honest enforcement of past years by administrators who were bound by that same organic act. I mean no disrespect to two high officials of our Government when I say that if there is no sauce for the goose there should be no sauce for the gander.

Mr. Chairman, for myself, may I say that I have every confidence that the Secretary of Labor is aware of these broad considerations and that he will not lightly disregard his oath of office and his duty to be a public servant whose integrity is not open to honest doubt. I see no reason why the Secretary could not, or would not, without favor or prejudice or partisan spirit, administer the duties and functions which this reorganization plan would vest in him.

Mr. DAWSON. Mr. Chairman, I yield such time as he may require to the gentleman from Missouri [Mr. KARSTEN].

Mr. KARSTEN. Mr. Chairman, I rise in support of the President's Reorganization Plan No. 6.

Some of the interests opposing this plan appear to be very badly informed. Some of the statements made in opposition to the plan are ridiculous.

Let me give you an example: Mr. Rowland Jones, Jr., president of the American Retail Federation, testified before the Committee on Expenditures in the Executive Departments on March 30, 1950. During his testimony Mr. Jones repeatedly referred to the judicial and quasi-judicial authority which he said the Administrator of the Wage and Hour Division now has, and which, according to Mr. Jones, would be transferred to the Secretary of Labor under this reorganization plan. I quote from his testimony:

> Thus, were Reorganization Plan No. 6 to be approved, the Secretary of Labor would become the repository of the powers as prosecutor, judge, and jury not only in cases of alleged violation of the act but also in all controversies concerning interpretation of the act and regulations thereunder.

Now, Mr. Chairman, there is no way to characterize that statement as incorrect. It is simply untrue. What are the facts? Who has the powers of prosecutor, judge, and jury under the Wage and Hour Law at present? If it is a criminal prosecution, the United States Attorney is the prosecutor, the United States district judge is the judge, and a Federal jury is the jury. If the case is a civil action for injunction, it is prosecuted by the Labor Department attorneys representing the Administrator and tried in the Federal courts. If it is a civil action by the Administration for back wages, the situation is the same. The case is prosecuted by Labor Department lawyers in either a Federal or a State court.

Would this reorganization plan take these powers away from the United States attorneys and the Federal and State court systems of this country? Absolutely not. The only change in the system would be that civil actions would be brought in the name of the Secretary of Labor rather than in the name of the Administrator. This would obviate the necessity of bringing two separate actions in the event that both child-labor and wage-hour violations are involved. Under the present condition of divided authority, child-labor actions must be brought in the name of the Secretary and wage-hour actions in the name of the Administrator.

One would think that Mr. Jones, representing a group which, according to him, has a particular and important interest in the Wage and Hour Division and in the Fair Labor Standards Act, would be better informed than to make the statement that under this reorganization plan the Secretary of Labor would become the repository of the powers of prosecutor, judge, and jury in cases of alleged violation of the act. The Administrator does not now have such powers; the Secretary of Labor would not have such powers under the reorganization plan.

There is one very significant fact in this whole situation which I think should be brought to the attention of the Members of this House. Some opponents of this plan have contended that it would take powers away from the Administrator and that the Secretary would not delegate powers back to him. Let us see what has actually happened in the past. There is a statute administered by the Department of Labor which Mr. Jones could have made his sweeping statement about with some degree of accuracy. That statute is the Walsh-Healey Public Contracts Act. Under that statute the Secretary of Labor has the power to issue complaints, to sit as judge and jury in an administrative hearing, and to render a decision which, if supported by preponderance of the evidence, is binding in the United States courts. I repeat, the statutory authority under that act is in the Secretary of Labor and in no one else. Now, let us see what the Secretary has done with that statutory power.

Who makes the inspections to determine whether violations of the act have occurred? Those inspections are made by the Wage and Hour and Public Contracts Divisions under the supervision of the Administrator. Who has the authority to settle such cases administratively? The Administrator of the Wage and Hour Division has that authority. And, finally, who has the power to render the final decision, after an administrative hearing? Again it is the Administrator. Under the present procedure, the initial hearing is before an examiner who holds his position pursuant to the Administrative Procedure Act. If an appeal is taken from his decision, it is subject to review on the question of liability by the Administrator, and by him alone, insofar as the administrative proceeding is concerned. Subsequently, suit may be instituted by the Attorney General in the district courts to enforce the decision of the Administrator, but the point I am emphasizing is, it is the Administrator and not the Secretary who makes the final administrative determination as to liability.

This delegation by the Secretary of his statutory authority is, in my opinion, an effective answer to those critics of Reorganization Plan No. 6 who maintain that the concentration of responsibility in the Secretary is unsound. It is a particularly effective answer when it is remembered that no such statutory authority is involved in the Fair Labor Standards Act. Under that act, contrary to statements which have been made, violations are prosecuted in the courts, not in the Department of Labor, and before Federal judges, not before the Secretary of Labor.

Mr. Chairman, I am going to support the President's Reorganization Plan No. 6 and I hope it will be adopted.

Mr. DAWSON. Mr. Chairman, I yield such time as he may require to the gentleman from Georgia [Mr. LANHAM].

Mr. LANHAM. Mr. Chairman, I am in favor of Reorganization Plan No. 6 and shall vote against the resolution opposing the plan. I do this, in the first place, because I am committed to support and try to put into effect the recommendations of the Committee on the Reorganization of the Executive Branch of our Government, commonly known as the Hoover Commission. I have committed myself to these ends because I am convinced that it is only in this way that we shall get responsibility, efficiency, and economy in our Government. Reorganization Plan No. 6 is strictly in line with

the Hoover Commission recommendations.

One of the plans, No. 12, I had grave doubts about. While this plan was sent down by the President, the Hoover Commission had taken no direct stand either for or against the transfer of the functions of the general counsel of the Labor Relations Board to the Secretary of the Board. But my main doubt about the plan came from the fact that it seemed to violate a principle which I think is sound in law and equity and in justice, that the same person or board should not be prosecutor, judge, and jury. While I realize that the present conflict between the general counsel and the Labor Relations Board is most confusing and a detriment to the proper conduct of the business devolving upon the Board and the general counsel, nevertheless, I think that that is a matter of personalities which the President can handle without violating the fundamental principle which, it seems to me, would be violated if Reorganization Plan No. 12 had been adopted.

When the matter was before the committee, of which I am a member, I voted against the resolution which would have killed plan No. 12. However, I reserved the right to oppose the plan and to vote for the resolution on the floor of the House. As it came about, the Senate acted adversely upon the plan and it was defeated so it never reached the floor of the House for action.

I recite these facts because somewhat the same argument has been made against Reorganization Plan No. 6. However, in my opinion, the argument does not apply to Reorganization Plan No. 6 since the duties of the Administrator of the Wage-Hour Act are administrative and are not, in my opinion, even quasi-judicial in their nature.

Under this plan, the Secretary of Labor would be authorized to exercise all functions of all other officers, employees, and agencies of the Department of Labor. Merely to state the effect of the reorganization plan is to contend for its adoption. The functions of the Department of Labor under the plan would be within the jurisdiction of the Secretary. The Secretary's authority would be coextensive with the operations of the Department. This makes good sense to me. It is in line with the recommendations of the Hoover Commission and the President. It makes good sense to the Commission and to the President.

The existing law which reposes independent administrative authority in the Administrator of the Fair Labor Standards Act, an officer within the Department of Labor, creates an anomoly, which I feel should be eliminated. The Administrator is in the Department of Labor but not of the Department of Labor. The Secretary of Labor is accountable for the efficient operations of his department, but a subordinate officer has independent authority respecting one of the most important operations of such department, namely, administration of the Fair Labor Standards Act.

One argument that has been advanced for the continuance of the present situation and disapproval of Reorganization Plan No. 6 is that the authority of the Administrator was set up by Congress and that Congress has in the past amended the Fair Labor Standards Act but continued its original method of administration. The facts are true but this argument is unsound. If taken seriously, it can be utilized to block any and every reorganization plan submitted by the President or reorganization undertaken by Congress. Congress has the authority and the responsibility to adopt new policies when new considerations come to their attention. If Congress feels it necessary to follow a pattern in this matter, then the most compelling pattern is not the present paradoxical set-up of Fair Labor Standards administration in the Department of Labor, but rather the established Government pattern in which the executive department heads are vested with administrative authority concerning the functions of their department.

The extent or degree of administrative authority under the Fair Labor Standards Act would in no wise be changed or broadened by the proposed plan. The great concern expressed over a change in the basic administrative policies or an application of such policies, I believe, has no realistic foundation. The Department of Labor, under the general direction and supervision of the Secretary, administers a number of laws and in my observation such laws are administered successfully. The Wage Determination statutes, such as the Davis-Bacon and Public Contracts Acts, the Wagner-Peyser Act, relating to the United States Employment Service and the unemployment insurance program of the Federal Government, you will find have been administered effectively and fairly. In the view of this experience, the loud cry of wolf rings with a particularly hollow sound.

It is my opinion that Reorganization Plan No. 6 is in keeping with the letter and the spirit of the Reorganization Act of 1949. I think its justification grows consistently out of that part of section 2 (1) of the act, which authorizes the President to examine and reexamine all of the agencies of the Government to determine what changes are necessary to accomplish, among other purposes, "the more effective management of the executive branch of the Government and its agencies and the most expeditious administration of the public business."

In the interest of more effective management of the Department of Labor and the most expeditious administration of the public business, I intend to support Reorganization Plan No. 6.

Mr. DAWSON. Mr. Chairman, I yield such time as he may require to the gentleman from New York [Mr. MULTER].

Mr. MULTER. Mr. Chairman, I am opposed to the Lucas resolution which we are now considering. I concur in all that has been said by the distinguished chairman of the House Committee on Expenditures in the Executive Departments in favor of the President's Reorganization Plan No. 6.

This plan would concentrate control and authority in the same person who has the responsibility for the operation of our important Department of Labor.

Some of the captious arguments urged against this plan revolve around the antagonism against our distinguished and able Secretary of Labor.

Permit me to direct your attention to the fact that the Administrator is as much subject to discipline and removal by our President as any member of his Cabinet.

In the light of that fact, it must be obvious that those who raise the cry of politics to this plan lack any sound ground for opposition.

Many Members opposing this plan have been asking for reference to support therefor by the Hoover Commission.

Permit me to direct the following to their attention, which conclusively disposes of the question.

Reference to House Document No. 55 of this Congress shows that recommendation No. 14 provides:

> Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.

In the same document, at page 32, we find this important comment:

> The line of authority from departmental heads through subordinates is often abridged by independent authorities granted to bureau or division heads, sometimes through congressional act or stipulations in appropriations. Department heads, in many instances, do not have authority commensurate with their responsibilities. Such bureau autonomy undermines the authority of both the President and the departmental head. There is, therefore, a lack of departmental integration in performing the department's major mission.

In House Document No. 119 of this Congress the point under discussion is specifically dealt with at page 5. The Hoover Commission report is there concerning itself with the Department of Labor. It says:

> We have urged in our first report that the foundation of good departmental administration is authority from the Congress for the Secretary to organize and control his Department. The granting by the Congress of independent authority to subordinates, of which there are several instances in the Department, should be eliminated.

The Secretary of Labor has the ultimate responsibility imposed upon him by law to administer statutory provisions. This plan will vest him with the control of all the personnel to whom the detail of enforcement must be delegated.

We approve the plan by voting against this resolution.

Mr. HOFFMAN of Michigan. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania [Mr. RICH] may extend his remarks in the RECORD immediately following the comments of the gentleman from Massachusetts [Mr. MCCORMACK] in which the gentleman referred to Mr. RICH. And, may I say by way of explanation, it was at the time that the gentleman from Pennsylvania said he did not yield to him, but this is in order that the gentleman may be able to make a reply.

Mr. McCORMACK. Mr. Chairman, reserving the right to object, and, of course I shall not object, I have no recollection of the occasion.

Mr. HOFFMAN of Michigan. It was something complimentary, and the gentleman from Pennsylvania wanted to return the compliment.

Mr. McCORMACK. Under the circumstances, Mr. Chairman, I must withdraw my reservation of objection.

Mr. RICH. The gentleman from Massachusetts and I always exchange compliments.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DAWSON. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. TAURIELLO].

Mr. TAURIELLO. Mr. Chairman, let me express myself at this time as being wholeheartedly and enthusiastically in favor of the President's Reorganization Plan No. 6 of 1950. I am, therefore, in accord with what has been said here today in support of that plan. I sincerely believe it to be a faithful effort to effectuate in the Department of Labor the recommendations of the Hoover Commission. I believe it will improve the efficiency of operation of that Department, particularly with respect to the administration of the Fair Labor Standards Act. I believe that it will be a boon to the businessmen of this country whose employees are covered by the provisions of that act. And I do not for one second believe that this plan will, to the slightest degree, affect the fair, honest, and impartial enforcement of that act.

But, if I may, Mr. Chairman, I would like to direct my comment to one objection which has been raised to this reorganization. It is said that its undesirability is demonstrated by the fact that, on three occasions, the Congress has refused to vest in the Secretary of Labor the duties and functions of the Wage and Hour Administrator. I submit that this is an oversimplification which distorts the true facts.

It is true that when the Fair Labor Standards Act was originally enacted in 1938, the powers of enforcement were lodged in an independent administrator in the Department of Labor. Legislative history shows that this was a compromise between the creation of an independent agency and the vesting of powers under the act in the Secretary of Labor. We should not forget, however, that in those days a Federal wage-and-hour law of such scope was a great experimental voyage on uncharted legislative seas. Congress could well have thought—as it did—that the administrative framework adopted was the most practicable at that time. There may have been personalities involved. But we cannot assume that Congress intended to engraft onto the substantial portions of the law a structural rigidity of administration which was to last for all time to come. Now that the provisions of this great statute have become part of the warp and woof of our commerce and our law, the time has arrived to bring its administration in harmony with the most recent recommendations for the executive branch of our Government.

It is also said that Congress in 1947 rejected Reorganization Plan No. 2 of that year which would have accomplished what the present plan seeks to do. But the statement does not go far enough. It must be remembered that the primary purpose of the 1947 plan was to relocate the United States Employment Service in the Department of Labor. It is clear from the legislative history that this was the principal reason for the disapproval of that plan. It should also be noted that when Congress so acted in 1947, it did not have before it the benefit of the exhaustive study and research which buttress the report of the Hoover Commission.

Finally, it is said that Congress, in enacting the 1949 amendments to the Fair Labor Standards Act, did not change the administration of the act. An inference is claimed that Congress thereby expressed its desire that no change be made. This inference is unwarranted. The Senate Committee on Labor and Public Welfare, in its report on the amendments, stated clearly that "with respect to the proposal to consolidate administration of the Fair Labor Standards Act under the Secretary of Labor, this can as well be accomplished through the exercise by the President of powers conferred upon him by the Reorganization Act of 1949, in the light of the over-all reorganization of Government labor functions envisaged by the Commission on Organization of the Executive Branch of the Government, as in special legislation."

I submit that at no time has Congress unequivocally rejected the change embodied in this plan. For the first time, standing alone, this proposed administrative reorganization is now before the Congress. It has supporting it not only the Secretary of Labor, but the Wage and Hour Administrator himself. It has supporting it the weight of the Hoover Commission report. It has supporting it the principles of good management. It has supporting it not only logic, but experience.

Mr. Chairman, I reiterate my approval of Reorganization Plan No. 6, and urge the rejection of House Resolution 522.

(Mr. TAURIELLO asked and was given permission to revise and extend his remarks.)

Mr. DAWSON. Mr. Chairman, I yield 5 minutes to our distinguished majority leader, the gentleman from Massachusetts [Mr. McCORMACK].

Mr. McCORMACK. Mr. Chairman, the pending resolution has been discussed from every angle on both sides, and the several speakers have addressed themselves to the issue involved. The debate has been on a very high and instructive plane.

The evidence is overwhelming, as I view it, in favor of the reorganization plan of the President being sustained and the disapproving resolution being rejected. This is consistent, as the various speakers have said, with the recommendations of the Hoover Commission. Two million dollars was appropriated by this Congress to enable that Commission to make its investigations, survey, and report. This plan is consistent with efficiency in the executive branch of the Government. It certainly will go a long ways toward taking off the shoulders of the President some of the tremendous tasks that devolve upon him now by law.

There are other departments of the Government in which the same plan has been recommended by President Truman—namely, Justice, Interior, Agriculture, and Commerce—and no disapproving resolutions have been filed against any of those plans, which involve identically the same policy of efficiency in a department as is involved in the reorganization plan relating to the Labor Department. Certainly if this plan is to be rejected the other plans should be rejected.

It seems to me that this is a reorganization which is sound and constructive, and I hope that the disapproving resolution will be rejected, which will mean that the Reorganization Plan No. 6 involved in the resolution pending before the House will go into operation.

Mr. DAWSON. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. LANHAM] to correct the RECORD.

Mr. LANHAM. Mr. Chairman, I want to call attention to a mistake in the report of the hearings on page 45.

The record reads:

> Mr. LUCAS. I am surprised at my friend, HENDERSON LANHAM, quoting from the Wall Street Journal to this committee.
>
> Mr. LANHAM. I read both sides of the street, and try to waltz down the middle.

I was not reported correctly. What I said was:

> I read both sides of the street, and try to walk down the middle.

I would like to have that correction made.

Mr. MADDEN. Mr. Chairman, Reorganization Plan No. 6, as recommended by the Hoover Commission and submitted by the President of the United States, should be ratified by this Congress.

All functions relating to labor-management problems should be under one head and that executive should be the Secretary of Labor. The functions of the Labor Department are executive and the President of the United States was elected by the people to carry on the executive functions of our Government. It is the function of the President to coordinate the interests of management and labor so that these interests will harmonize and be more effective with the other segments of our national economy.

Reorganization Plan No. 6 provides that all functions vested in any other officer, agency, or employee of the Department of Labor are transferred to the Secretary of Labor. This plan conforms and is in the same pattern of streamlining organization which was recommended for each of the other executive departments by the Hoover Commission on Organization of the Executive Branch of the Government.

By adopting this plan, the Department of Labor will not gain any more powers, authority, functions, or responsibility

than it already has. It will merely centralize authority in the Secretary of Labor, where it should be. The public looks to the Secretary of Labor for responsibility and accountability of functions concerning labor-management relations, which are at present outside of his authority and should be placed under his jurisdiction as Reorganization Plan No. 6 provides.

Members who are opposed to this plan feel that it will give the Secretary of Labor additional power, which is not true. Under the present set-up, responsibility for mismanagement and inefficiency in the Wage and Hour Division is thrown on the shoulders of the Labor Department, of which the Secretary of Labor is the head. He receives all criticism for improper functioning of the Wage and Hour Division, although the authority and operating is under a separate executive. Opponents of this plan say that the Wage and Hour Division has done a good job. Only recently the Wall Street Journal, which cannot be classified as a friend of labor or the administration, complained that the present administration of the wage-hour law is being done by a horde of snoopers and so set their opinion out in an editorial.

Robert L. L. McCormick, research director of the Citizens Committee for the Hoover Report, in testifying at the hearings for Reorganization Plan No. 6, stated that the plan should be adopted, and that the responsibility should be under the Secretary of Labor. He further stated that this would place the responsibility solely where it belongs and if it does not function properly, the Secretary of Labor, being the President's appointee, is more directly responsible to the people.

Thus, if there are abuses of the administration of the wage-hour law or of any other law, it becomes a campaign issue and can be taken to the people for ratification or rejection. Under our system of the executive department, the President must delegate this authority down the line and these various department heads are directly responsible to him as he is directly responsible to the people of the country.

The adoption of this plan will merely be another step toward streamlining the operations of our Government and placing into operation the practical recommendations of the Hoover Commission.

Mr. DONOHUE. Mr. Chairman, Reorganization Plan No. 6 does conform specifically to the organizational pattern for each of the executive departments which was expressly recommended by the Commission on Organization of the Executive Branch of the Government. It is identical and in no respect different from the parallel plans proposed by the President for the Departments of Justice, Interior, Agriculture, and Commerce. It is important that we bear in mind that the Department of Labor will not, through this plan, add anything to its present powers, authority, functions, or responsibilities by operation of this legislation. It will accomplish one of the basic needs and long-delayed reforms so essential in the executive branch of the Government, for it will centralize authority in the Secretary of Labor where he is presently the repository for its correlatives, responsibility, and accountability.

A great amount of discussion has been had on the status of the Wage and Hour Administrator. Here we have one of those anomalous situations engendered by compromise, where independent grants of authority to subordinate officials have weakened the structure of the Department.

It is a pertinent point to demonstrate that the Wage and Hour Administrator and the Secretary, both political appointees, confirmed by the Senate, are working together in harmony and cooperation. However, this same harmony and cooperation that has been obtained is based upon the compatible premise of personal grounds, rather than the requisite legislative basis that should underlie such departmental integration.

One last point might be urged. Every examination of the functions of the Wage and Hour Administrator induces the conclusion that he does not act in a quasi-judicial capacity. He has no similarity in his duties to any agency which would require a separation of prosecutive from judicial functions. His determinations are not final; he is merely a plaintiff in the Federal courts attempting appropriate enforcement for a violation of law.

Reorganization Plan No. 6 will not confer upon the Secretary any aura of quasi-judicial powers which involve wage and hour administration.

In the matter of structural organization and the strengthening of the framework of business organization, a direct and attributable answer cannot be made in economy by allusions to dollar-and-cents savings. Economy will essentially flow from increased efficiency, arising out of a delineation of clear-cut authority extending from the very top of the Department to the bottom. Duplication in practices, overlapping personnel and procedures are made patent, and remedial steps auguring well for savings to the taxpayer will result from legislation of this nature. Reorganization must of itself necessarily mean change; but every change should bring progress. Reorganization Plan No. 6 supplies that answer.

The CHAIRMAN. Are there further requests for time? [After a pause.] The Chair hears none.

The Clerk will read the resolution.

The Clerk read as follows:

Resolved, That the House of Representatives does not favor the Reorganization Plan No. 6 of 1950 transmitted to Congress by the President on March 13, 1950.

Mr. DAWSON. Mr. Chairman, I move that the Committee do now rise and report the resolution (H. Res. 522) rejecting Reorganization Plan No. 6 of 1950, back to the House with the recommendation that it be not agreed to.

The motion was agreed to.

Accordingly the Committee rose; and Mr. PRIEST having assumed the chair as Speaker pro tempore, Mr. GARY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration House Resolution 522, directed him to report the same back to the House with the recommendation that it be not agreed to.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, the resolution, not having received the affirmative vote of a majority of the authorized membership of the House, the resolution is not agreed to.

So the resolution was rejected.

DISAPPROVING REORGANIZATION PLAN NO. 5—DEPARTMENT OF COMMERCE

Mr. DAWSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 546) disapproving Reorganization Plan No. 5; and pending that motion I ask unanimous consent that debate on the resolution may continue not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Michigan [Mr. HOFFMAN] and myself.

Mr. HOFFMAN of Michigan. Mr. Speaker, reserving the right to object, and I shall not, I have had no requests for time. I think the debate may be concluded in half an hour, although I am glad to have the reservation of an hour. We will try to get through on this side in 10 minutes.

Mr. DAWSON. And we will try to get through in 10 minutes.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. DAWSON] asks unanimous consent that debate on the resolution continue not to exceed an hour, the time to be equally divided and controlled by the gentleman from Michigan [Mr. HOFFMAN] and himself.

Is there objection?

There was no objection.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Illinois.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 546, disapproving Reorganization Plan No. 5, with Mr. GARY in the chair.

The Clerk read the title of the resolution.

By unanimous consent, the first reading of the resolution was dispensed with.

Mr. DAWSON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the question that now comes up is the same question that was raised in reference to Reorganization Plan No. 6 of 1950. The same arguments that could have been made for rejection of plan No. 6 could be made and will be made upon plan No. 5. The same arguments for plan No. 5 would be the same ones used for plan No. 6. So I am not going to take the time of the committee that has listened to all the arguments, and knows the purpose of these plans.

There is only one difference between the two and that is in the exemption of one or two agencies other than the Board of Examiners. That exemption is made

81st Congress } SENATE { Report
2d Session } { No. 1684

REORGANIZATION PLAN NO. 6 OF 1950, PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF LABOR

May 19 (legislative day, March 29), 1950.—Ordered to be printed

Mr. McClellan, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

By authority of the Reorganization Act of 1949 (Public Law 109, 81st Cong., 1st sess., June 20, 1949), the President of the United States has submitted to the Congress Reorganization Plan No. 6, providing for reorganizations in the Department of Labor. The complete text of plan No. 6 is given in appendix A.

No resolution of disapproval has been filed in the Senate. Nevertheless, this committee, although under no requirement to do so by the Reorganization Act, is reporting favorably on Reorganization Plan No. 6, in order that the Senate may know the result of the committee's consideration thereof, and may have adequate information as to its provisions.

In the House of Representatives, House Resolution 522, which proposed rejection of Reorganization Plan No. 6 of 1950, was referred to the House Committee on Expenditures in the Executive Departments. After hearings on March 30, 31, and April 3, 1950, that committee reported the resolution unfavorably on April 6, 1950 (H. Rept. 1907). The House of Representatives rejected House Resolution 522 on May 18, 1950, in line with the committee's report. If the Senate takes no further action the plan becomes effective on May 24, 1950.

PLANS NOS. 1 TO 6 OF 1950

In a special message to Congress accompanying Reorganization Plans Nos. 1 to 13 of 1950, the President outlined the purpose of plans Nos. 1 to 6, inclusive, as follows:

> Reorganization Plans Nos. 1 to 6, inclusive, relate to the Departments of the Treasury, Justice, the Interior, Agriculture, Commerce, and Labor. With certain exceptions, these plans transfer to the respective Department heads the functions of other officers and agencies of the Departments. They permit each Department head to authorize the functions vested in him to be performed by any officer, agency, or employee of the Department. In addition, Administra-

tive Assistant Secretaries are provided for each of the six Departments, and additional Assistant Secretaries are authorized for the Department of the Interior and the Department of Agriculture * * *.

Through the years the Congress has repeatedly endorsed the policy of holding agency heads fully accountable for all the functions of their agencies. Last year this policy was pursued in the legislation authorizing reorganization of the Department of State and establishing the General Services Administration. A reorganization plan applying this principle to the Post Office Department was likewise approved.

However, in the six Departments covered by these plans, all functions are not now uniformly vested in the Department heads. Some statutory authority is held independently by subordinate officers and agencies. These plans extend fully to the six Departments the principles of strengthening departmental management by eliminating the patchwork exceptions that now exist.

HOOVER COMMISSION RECOMMENDATIONS

Plans Nos. 1 to 6 do not transfer any organization units to new locations. They develop only the four following recommendations in Hoover Commission Report No. 1 on General Management, which are concerned with centralization of functions and an adequate supervisory staff:

14. Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.

16. Department heads must have adequate staff assistance if they are to achieve efficiency and economy in departmental operations.

18. Each department head should receive from the Congress administrative authority to organize his department * * *.

20. We recommend that the department head should be given authority to determine the organization within his department * * *.

Following up this series of general recommendations, Hoover Commission Report No. 13 on the Department of Labor opened its discussion of "proposed departmental organization" as follows:

We have urged in our first report that the foundation of good departmental administration is authority from the Congress for the Secretary to organize and control his Department. The granting by the Congress of independent authority to subordinates, of which there are several instances in the Department, should be eliminated.

PLAN NO. 6 OF 1950

Supplementing his more general message on Reorganization Plans Nos. 1 to 6, described above, the President also transmitted plan No. 6 on March 13, 1950, providing for reorganizations in the Department of Labor. Under the Reorganization Act of 1949 this plan becomes effective after 60 days of continuous session of Congress after the plan is transmitted, unless a majority of the authorized membership of either of the two Houses adopts a resolution of disapproval. Allowing for the House recess from April 6 to April 18, 1950, plan No. 6 will therefore become effective on May 24, 1950, unless a disapproving resolution is both introduced and acted on in either House before that date.

In accord with the content of plans Nos. 1 to 6 as a whole, and with the Hoover Commission recommendations cited above, plan No. 6 transfers—

to the Secretary of Labor all functions of all other officers of the Department of Labor and all functions of all agencies and employees of such Department.

Specific exceptions from the centralization of authority are made, however, of—

the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Labor.

Plan No. 6 authorizes the Secretary of Labor to delegate functions; to transfer such "records, property, personnel, and unexpended balances" of funds as are necessary solely to work out the reorganizations provided for in the plan; and to appoint an Administrative Assistant Secretary of Labor under the classified civil service, with the approval of the President, at a salary of $14,000 per year.

Plan No. 6 would vest in the Secretary authority over the following 10 major operating units of the Department of Labor, which are listed in the order of the number of employees on January 1, 1950.[1] At present such authority over bureaus of the Department of Labor is vested mainly in the Secretary to be delegated as he sees fit, except that authority over the three bureaus listed below in italics is vested mainly in the units themselves, Statutory background is developed more fully in the next section of this report.

	Number of employees
1. *Bureau of Labor Statistics*	1,599
2. *Wage and Hour Division (including Public Contracts)*	1,087
3. Bureau of Employment Security	966
4. Bureau of Apprenticeship	483
5. Office of the Secretary	295
6. Office of the Solicitor	232
7. Bureau of Labor Standards	113
8. Employees outside continental United States	86
9. *Women's Bureau*	67
10. Bureau of Veterans' Reemployment Rights	43
Total employees	4,971

Plan No. 6 relates only to the centralization of authority in the Secretary of Labor over his Department. It does not give that Department any more powers, functions, or responsibilities than it now has. It does not cover recommendations in Hoover Commission Report No. 13 on the Department of Labor which propose the transfer to the Department, of the Bureau of Employees' Compensation and its Appeals Board,[2] the independent Selective Service System, determination of minimum wages for seamen, wage research surveys, and, after study, certain industrial hygiene functions.

The Citizens' Committee for the Hoover Report points out that plan No. 6, providing for reorganizations in the Department of Labor, develops one of the various phases of Hoover Commission recommendations which are designed to restore to a revitalized Department the activities of which "it has been denuded." This approach was accented by former President Hoover in last year's hearings on the reorganization plans of 1949.

Other features of the general plan include plan No. 14 (pending) dealing with labor-standards enforcement, and plan No. 19 (pending) with the Bureau of Employees' Compensation and the Employees' Compensation Appeals Board. In 1949, plan No. 2 became effective transferring the Bureau of Employment Security, including the Veterans' Employment Service, to the Department.

[1] Organization of Federal Executive Departments and Agencies. Committee Report No. 9, Senate Committee on Expenditures in the Executive Departments, January 1, 1950.

[2] See Reorganization Plan No. 19 of 1950, S. Rept. 1549, 81st Cong.

There remain the following four important Hoover Commission recommendations to expand Labor Department functions on which no action has yet been proposed: (1) Transfer of seamen's minimum-wage determinations on privately operated vessels; (2) centralization of work on labor and "prevailing wage" statistics in Bureau of Labor Statistics; (3) study of transfer of aspects of industrial hygiene; and (4) transfer of the Selective Service System, including the independent Appeals Board.

STATUTORY BACKGROUND OF PLAN NO. 6

The Secretary of Labor now has the responsibility for administering all statutory provisions in the Department relating to labor standards, except those provisions of the Fair Labor Standards Act relating to wages and hours, which are independently administered by the Administrator of the Wage and Hour Division.[3] The Secretary is responsible for the determination of prevailing minimum wages under the Davis-Bacon Act and under the Walsh-Healey Public Contracts Act. He has the responsibility for the administration of the wage, hour, child-labor, convict-labor, and safety and health requirements of the Public Contracts Act, and the child-labor provisions of the Fair Labor Standards Act. In actual practice, the Secretary has delegated to the Administrator of the combined Wage and Hour and Public Contracts Divisions administration of the provisions of the Public Contracts Act, along with the administration of the wage-and-hour provisions of the Fair Labor Standards Act, for which the Administrator now has the ultimate responsibility. The two acts are administered by the same personnel, both departmental and field; yet the Administrator has ultimate authority under one act and the Secretary under the other.

It is stated that the present division of responsibility between the Secretary of Labor and the Administrator has caused little trouble, solely because of the good working relations between those two officials. Should personalities clash, however, either now or in the future, this cooperation would cease or at least be impaired. If plan No. 6 prevails, this difficulty will be eliminated because all power will then be vested in the Secretary of Labor.

Reorganization Plan No. 2 of 1947 (sec. 2), transferring to the Secretary the independent powers of the Administrator under the Fair Labor Standards Act, was rejected by the Congress. The major opposition to that plan, however, probably arose in connection with section 1, relating to the location of the United States Employment Service (H. Rept. 499, 80th Cong., 1st sess., p. 2). Two years later, transfer of the United States Employment Service to the Department of Labor, as part of the Bureau of Employment Security, was effected by Reorganization Plan No. 2 of 1949.

In reporting on 1949 amendments to the Fair Labor Standards Act, the Senate committee report (S. Rept. 640 on S. 653, which became Public Law 393) indicated that the consolidation of administration by that act under the Secretary of Labor—

> can as well be accomplished through the exercise by the President of powers conferred upon him by the Reorganization Act of 1949 * * * as in special legislation.

Plan No. 6 of 1950 follows that suggestion.

[3] See Reorganization Plan No. 14 of 1950, S. Rept. 1546, 81st Cong.

Plan No. 6 would also clarify the authority of the Secretary with respect to certain other departmental functions for which, as head of the Department, he is responsible:

(*a*) Collecting, collating, reporting, and publishing employment statistics by the Bureau of Labor Statistics under act of July 7, 1930 (29 U. S. C., sec. 2).

(*b*) Collecting reports through special agents of the Commissioner of Labor Statistics (29 U. S. C., sec. 2a).

(*c*) Bureau of Labor Statistics studies of productivity and labor costs in industries (29 U. S. C., sec. 2b).

(*d*) Maintenance by the Bureau of Labor Statistics of a file of collective-bargaining agreements under section 211 of Labor-Management Relations Act, 1947 (29 U. S. C., sec. 181).

(*e*) Functions of the Women's Bureau with respect to the formulating of standards and policies for promotion of welfare of women and making of investigations on welfare of women in industry (29 U. S. C., sec. 13).

EFFECT ON WAGE-HOUR ADMINISTRATOR

While no disapproving resolution has been filed in the Senate, as it was in the House of Representatives, one or two groups have questioned a so-called basic conflict under plan No. 6 between the obligations of the Secretary of Labor under the organic act creating the Department and the duties and responsibilities inherent in the administration of the Fair Labor Standards Act.

More specifically these critics point out that the law creating the Department of Labor gave as its purpose—

> to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their profitable employment.

On the basis of this law, the critics insist that the Secretary of Labor—

> has a statutory obligation to be partisan in the interest of labor. Administration of the Fair Labor Standards Act involves rules and regulations affecting both management and labor, in fact our whole economy, and should be vested in an agency independent of either management or labor. While having the Wage and Hour Division in the Department of Labor even for housekeeping purposes is not desirable, the damage which could result from having a partisan official as the chief administrative officer is much greater.

On the other hand, there is strong objection to the present statutory grant of semi-independent authority and autonomy to the subordinate Wage and Hour Administrator. For example, Secretary of Labor Maurice J. Tobin states (H. Rept. 1907, 81st Cong., 2d sess.):

> As Secretary of Labor, people come to me with problems which confront them arising out of laws administered by the Department. It is confusing to them, and unsatisfactory to me, when I have to tell them that if their problem concerns child labor under the Fair Labor Standards Act I can listen to what they have to say, investigate the facts, and make appropriate disposition of the matter; but if it involves wages or hours, I must refer them to the Wage and Hour Administrator. Or, suppose an inquiry comes from an employer, or a union representing employees, who are working on a Government contract covered by the Public Contracts Act and are also engaged in work covered by the wage-and-hour law. If the inquiry relates to the employer's wage practices, I can give definite answers so far as the public contract work goes, but I can't give binding advice on whether the requirements of the wage-and-hour law are being met. Only the Wage and Hour Administrator can do that. So the inquiring employer or union must see

both the Administrator and myself. This kind of situation, too, makes for dissatisfaction and confusion * * *.

The Wage and Hour Administrator, like all other officers of the Department of Labor, is bound to carry out his functions in a manner consistent with the basic purposes of the Department as set forth in its organic act. But he is also, of course, bound to administer the wage-and-hour provisions of the Fair Labor Standards Act in accordance with the intent of Congress as set forth in that act. The Secretary of Labor is under the same obligation now in administering the child-labor provisions of the act. If the transfer of functions provided for in Reorganization Plan No. 6 is approved, the Secretary of Labor will, in administering the wage-and-hour provisions of the act, be bound by the same duty in this respect that the Administrator now has. Whether the Fair Labor Standards Act be administered by the Wage and Hour Administrator or by myself makes no difference in this respect.

William R. McComb, Administrator, Wage and Hour and Public Contracts Division, United States Department of Labor, urged the adoption of this reorganization plan in order to obtain centralized responsibility:

* * * I believe that the placement of full responsibility in the Secretary's office will result in considerable improvement in the administration of the act. The Secretary has indicated in his testimony and has assured me that he intends to delegate his responsibility to the Administrator with full responsibility to act, subject to the Secretary's general direction and control. I believe this policy of centralized responsibility, to be exercised under the direction and control of the Secretary, will result in an effective as well as impartial administration of the law.

Under the present law any controversy between employers and either the Secretary or the Administrator as to interpretation of the Fair Labor Standards Act can only be resolved by appeal to the courts.

In practice, periodic field inspections of establishments are made through regional offices of the Division to determine any violation of the act. Usually they involve an interview with the employer, a physical inspection of the plant, scrutiny of records of the employer, and interviews with representative groups of employees. If violations are uncovered, the employer is told what must be done to correct such violations. If need be, regional offices assist the investigator to help bring about payment of unpaid overtime compensation.

When findings and conclusions as to violations are not acceptable to the employer, the Administrator or the Secretary must rely on departmental lawyers for civil actions in the courts, and on the Department of Justice for any necessary criminal prosecutions in the Federal courts. The Wage and Hour Administrator has no judicial or quasi-judicial functions in the issuance of binding decisions based on the Fair Labor Standards Act; such is only the case under the Walsh-Healey Public Contracts Act with relation to the Secretary of Labor.

The great significance of the foregoing is that the Wage and Hour Administrator has no quasi-judicial duties, and must convince a Federal court of any alleged violations of law if such departmental findings are denied by employers.

CONCLUSION

No opposition to plan No. 6 was expressed to the committee. The plan develops desirable aspects of Hoover Commission recommendations for the Department of Labor. The committee, therefore, recommends against any action of disapproval by the Senate.

APPENDIX A

[H. Doc. No. 510, 81st Cong., 2d sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING REORGANIZATION PLAN NO. 6 OF 1950, PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF LABOR

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 6 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of Labor. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 6 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Administrative Assistant Secretary of Labor. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 6 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF LABOR

SECTION 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Labor all functions of all other officers of the Department of Labor and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Labor.

SEC. 2. *Performance of functions of Secretary.*—The Secretary of Labor may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Labor of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

SEC. 3. *Administrative Assistant Secretary.*—There shall be in the Department of Labor an Administrative Assistant Secretary of Labor, who shall be appointed, with the approval of the President, by the Secretary of Labor under the classified civil service, who shall perform such duties as the Secretary of Labor shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 4. *Incidental transfers.*—The Secretary of Labor may from time to time effect such transfers within the Department of Labor of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

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81ST CONGRESS } HOUSE OF REPRESENTATIVES { DOCUMENT
2d Session } { No. 511

REORGANIZATION PLAN NO. 7 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 7 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE INTERSTATE COMMERCE COMMISSION

MARCH 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 7 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Interstate Commerce Commission. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 7 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 7 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

INTERSTATE COMMERCE COMMISSION

Section 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Interstate Commerce Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

(c) The Director of Locomotive Inspection and the two Assistant Directors of Locomotive Inspection shall perform their functions subject to the direction and control of the Chairman.

Sec. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of section 1 of this reorganization plan.

Sec. 3. *Designation of Chairman.*—The functions of the Commission with respect to choosing a Chairman from among the Commissioners composing the Commission are hereby transferred to the President.

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81ST CONGRESS
2D SESSION

S. RES. 253

IN THE SENATE OF THE UNITED STATES

APRIL 12 (legislative day, MARCH 29), 1950

Mr. JOHNSON of Colorado submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 7 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 253

RESOLUTION

Disapproving Reorganization Plan Numbered 7 of 1950.

By Mr. JOHNSON of Colorado

APRIL 12 (legislative day, MARCH 29), 1950

Referred to the Committee on Expenditures in the Executive Departments

81ST CONGRESS
2D SESSION

H. RES. 545

IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 1950

Mr. CROSSER submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 7 transmitted to the Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

H. RES. 545

RESOLUTION

Declaring that the House of Representatives does not favor the Reorganization Plan Numbered 7 transmitted to the Congress by the President on March 13, 1950.

By Mr. CROSSER

APRIL 18, 1950

Referred to the Committee on Expenditures in the Executive Departments

81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Report No. 1971

REORGANIZATION PLAN NO. 7 OF 1950

May 1, 1950.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Dawson, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany H. Res. 545]

The Committee on Expenditures in the Executive Departments, to whom was referred the resolution (H. Res. 545) rejecting Reorganization Plan No. 7 of 1950, having considered the same, report unfavorably thereon without amendment and recommend that the resolution do not pass.

General Statement

The purpose of House Resolution 545 is to express disapproval of Reorganization Plan No. 7 of 1950, transmitted to the Congress by the President on the 13th day of March 1950, and the effect of the adoption of this resolution by the Congress will be to prevent such plan from coming into force and effect on May 12, 1950, mindful, however, that under section 6 (b) (2) of the Reorganization Act of 1949 (Public Law 109, 81st Cong.), that from the 60-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain.

The scope and the effect of the reorganization plan, in the absence of a disapproval by a House resolution, are set forth in the plan in the following words and figures:

INTERSTATE COMMERCE COMMISSION

Section 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Interstate Commerce Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such

personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

(c) The Director of Locomotive Inspection and the two Assistant Directors of Locomotive Inspection shall perform their functions subject to the direction and control of the Chairman.

SEC. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of section 1 of this reorganization plan.

SEC. 3. *Designation of Chairman.*—The functions of the Commission with respect to choosing a Chairman from among the Commissioners composing the Commission are hereby transferred to the President.

REORGANIZATION PLAN NO. 7 OF 1950—REORGANIZATIONS IN THE INTERSTATE COMMERCE COMMISSION

SECTION BY SECTION ANALYSIS

Section 1. *Transfer of functions to the Chairman.*—This reorganization plan, in general, transfers—

(a) the executive and administrative functions of the Commission to the Chairman of the Commission. This transfer will include—

(1) appointment and supervision of personnel;

(2) distribution of business among personnel and among administrative units; and

(3) the use and expenditure of funds.

(b) (1), (2), (3), and (4) as recited in this reorganization plan are restrictions on the powers vested in the Chairman;

(1) General provision is made that the Chairman shall carry out his functions consistent with the general policies and decisions of the Commission, etc.

(2) This makes the appointments of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) No full-time and regularly employed personnel in the immediate offices of Commissioners other than the Chairman are affected by the provisions of this reorganization plan.

(4) Reserved to the Commission are its functions on revision of budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

(c) The Director of Locomotive Inspection and the two Assistant Directors of Locomotive Inspection are subject to the direction and control of the Chairman in the performance of their functions.

Section 2. *Performance of transferred functions (delegative powers).*—This provides for the performance of transferred functions by other officers, employees, or administrative units within the Commission.

This delegates performance to subordinates, but the responsibility for performance of transferred functions remains vested in the Chairman of the Commission.

Section 3. *Designation of Chairman.*—The President is vested by transfer with the functions of the Commission with respect to choosing a Chairman from among the Commissioners composing the Commission.

Addendum

The subject matter of this reorganization plan has been of great interest to numerous individuals, trade and business organizations, and Members of the Congress. They have forwarded to your committee many statements, telegrams, and letters setting forth varied opinions, viewpoints, and comments on this legislation. A complete review has been had of this material, and it shall, insofar as practicable and consistent with committee policy and economy, be incorporated into the record of the hearings. The committee has had the excellent advantage of hearing many witnesses who have appeared to declare their positions in favor of or in opposition to Reorganization Plan No. 7. The thorough preparation of their analyses and the excellent opportunities presented for developments of the various phases comprising this reorganization plan have fructified and immeasurably aided the deliberations of your committee.

Splendid opportunity was given during the extensive and probative hearings for a lengthy and complete study of the many features of this transfer of functions within the framework of the Interstate Commerce Commission. The great body of law dealing with interstate commerce and the Interstate Commerce Commission is neither new nor novel, since it has had the abiding attention of the Congress over the years in repeated studies, surveys, developments, and legislative hearings. Basic and fundamental information was brought to light and analyzed during the study of the filed statements, and during the interrogating exchanges which high-lighted the examination of witnesses; thus the central points of this plan were laid bare, and proved directly instrumental in guiding your committee in its conclusion to reject House Resolution 545.

Purpose of Reorganization Plan No. 7

The effect of Reorganization Plan No. 7 is, in general, to transfer the executive and administrative functions of the Commission to the Chairman. Certain restrictions on the powers so vested in the Chairman are recited, so that the basic authority and responsibility of the Commission for substantive policies is preserved; while the Chairman becomes the repository of authority and responsibility for day-to-day administration.

This reorganization plan is one of a series dealing with regulatory commissions submitted by the President to the Congress on March 13, 1950. In no manner does it involve any expansion or diminution of the basic functions of the Commission, or in any way modify or alter the substantive laws administered by the Interstate Commerce Commission. It is solely aimed at improvement of the agency's internal management, through a strengthening of its organizational pattern, coordination of functions and a closer welding of administrative framework. Plan No. 7 has the effect of accomplishing the

primary and basic recommendation in the field of regulatory commissions, proposed by the Commission on Organization of the Executive Branch of the Government. In keeping with the great stress which the Commission on Organization placed on the establishment of clear lines of authority and responsibility from the top to the bottom in every department, and indeed the entire executive branch, it recommended—

* * * that all administrative responsibility be vested in the Chairman * * * (Recommendation No. 1, Report on Regulatory Commissions.)

Clear-cut lines of authority, proper allocation, improvements in spans of attention and control, elimination of confusion in areas of responsibility and authority, together with a strengthening in unity of internal management, make for economy of operation and improved efficiency in service.

Origin and Mission of the Interstate Commerce Commission

The Interstate Commerce Commission was established by the Congress in 1887. Thus, it is the oldest of the independent regulatory commissions. It has served as the model for subsequently created regulatory bodies.

By reason of a broadening of its authority over the years, the Commission now has the power to regulate railroads and related carriers, common and contract motor carriers, certain domestic water carriers, pipe lines, and freight forwarders. In general, it can be said that the Commission has extensive authority to fix rates for numerous classes of carriers, require provision for reasonable service, grant certificates of convenience and necessity, control consolidations, mergers, and so forth; regulate issuance of securities of carriers, and fix safety standards and devices.

The Commission is made up of 11 members, with no more than 6 drawn from the same political party. They serve 7-year terms, or until a successor is appointed. The members annually elect a Chairman from their number, with each member able to serve as Chairman for 1 year in rotation.

The Interstate Commerce Commission, as an independent regulatory body, performs a varied scope of functions quasi-legislative and quasi-judicial, as well as to some extent administrative. The greatest bulk of its work involves quasi-legislative duties in prescribing future rates; its quasi-judicial duties take the form of, for example, awarding reparation where a carrier has collected an unreasonable rate. Ordinarily, the Interstate Commerce Act requires a public hearing of the parties before the entering of an order so that the procedure has much that is quasi-judicial in character.

Chiefly, the Commission is operated by means of divisions. Five divisions are composed from the eleven-man membership, with each generally composed of three members. Each division deals with definite categories of cases. Only general investigations begun on the Commission's own motion are decided by the entire Commission as a body, in the first instance; in such cases the Commission seldom hears any testimony, although often permitting oral argument. By agreement of the parties, many cases are assigned to individual Commissioners for handling under procedure aimed at the expeditious processing of cases. However, the great bulk of hearing work,

research, and initial report writing is done by examiners. Divisions do not often hear testimony except when a case is reopened, but will frequently hear argument.

Since its inception the Commission has enjoyed the highest standing; its independence, reputation for impartiality and integrity, coupled with its skill and documentation of decisions, has recommended it to the public and the legal profession.

Basis for Reorganization Plan No. 7

RECOMMENDATIONS OF THE COMMISSION ON ORGANIZATION OF THE EXECUTIVE BRANCH OF THE GOVERNMENT

Reorganization Plan No. 7 is established on the Commission on Organization's recommendations which follow:

The references to report and task force recommendations and comments are restricted to those which refer to (1) the concentration of administrative responsibility in the Chairman, (2) the appointment of the Chairman, and (3) the delegation of functions to the staff. These are the only three major matters dealt with in the plans.

REFERENCES GENERALLY APPLICABLE

1. Report on regulatory commissions

Recommendation No. 1 (p. 5):

We recommend that all administrative responsibility be vested in the Chairman of the Commission.

Recommendation No. 6 (p. 10):

The Commission therefore recommends that the statutes be amended so as to permit the Commissions to delegate routine, preliminary, and less important work to members of the staffs under their supervision.

2. Report on Regulatory Commissions—Task Force Report (Appendix N)

Delegation of administration to the Chairman (pp. 46–47):

In order to prevent the absorption of all the commissioners in administrative details at the expense of the substantive work, the Chairman should be specifically designated as the person responsible for administration within the Commission. * * * Duties * * * of the Chairman * * * should include—

1. Supervision of the various bureaus and divisions from the administrative point of view, such as their work load, backlog, progress, and programs.

2. Direction of the administrative divisions of the Commission—those dealing with the budget, personnel, management analysis, and office and miscellaneous services.

3. Analysis of the administration and procedures of the Commission for proposing changes to improve administrative efficiency and to provide more systematic supervision.

* * * * * * *

On routine supervision and appointments, the Chairman should merely report periodically to the Commission. But the Chairman's primary responsibility for administration should not supplant the ultimate authority of the entire Commission on matters which are of major significance to the agency.

Delegation to the staff (p. 49):

* * * recognition of the Chairman as administrative head of the Commission will facilitate the delegation of administrative duties to the staff under his direction.

The task force exhorted each Commission to foster areas—

* * * of further delegations to its staff of authority to handle routine and preliminary matters which should not require the specific attention of the Commission as a whole.

And again—

To the extent that requirements of law are considered to compel Commission handling of matters which should be delegated, it is recommended that the commissions be expressly authorized by statute to make delegations to members and staff officials to act for the Commission on routine, procedural, or other matters where the Commission considers it appropriate. Under this explicit authority the Commission should be less hesitant to delegate authority with respect to such matters (p. 49).

REFERENCES APPLICABLE TO PLAN NO. 7

1. Report on Regulatory Commissions (Appendix N)

Appointment of the Chairman (pp. 31–33):

We recommend that the Chairman of each Commission should be designated from among the members by the President and should serve as Chairman at his pleasure. This proposal is closely related to our recommendation, * * * that the Chairman should be recognized as the administrative head of the agency.

The designation of the Chairman by the President is not a novel proposal. Under existing law, the President names the Chairman of five of the nine Commissions, one to serve for 4 years, one for 1 year, and the other three apparently at pleasure. While the other four Commissions select their own Chairmen, the members of two of them have frequently chosen a member informally suggested by the President (Securities and Exchange Commission and Federal Power Commission).

Our recommendation is merely that the practice of selection by the President be made the general rule by statute, and that the Chairman serve as such at the pleasure of the President in all cases, although protected against removal as a member.

Feasibility of This Transfer of Functions

The Commission on Organization of the Executive Branch of the Government, in their studies, concluded that the independent regulatory commission had a very proper place in the governmental machinery of the United States. However, in the main, it was the belief that Commissions as such had proved to be a history of promise rather than achievement, since the role created for these Commissions in their original establishment had not always been satisfactorily fulfilled. This reorganization plan is designed to correct what was regarded by the Commission on Organization as a primary defect in the organizational structure of the regulatory commissions. In its Report on Regulatory Commissions ((c) p. 3) the Commission on Organization pointed out:

Purely executive duties—those that can be performed far better by a single administrative official—have been imposed upon these Commissions with the result that these duties have sometimes been performed badly. The necessity for performing them has interfered with the performance of the strictly regulatory functions.

Also Reorganization Plan No. 7 would effect another major recommendation of the Commission on Organization—

That all administrative responsibility be vested in the Chairman of the Commission. (Recommendation No. 1, Report on Regulatory Commissions.)

The industry tested principle underlying this much-needed advance in internal management would work for improved administration of the Interstate Commerce Commission by designating one Commission

member, the Chairman, as responsible for day-to-day operations. This approach works for unified leadership and supervision of the staff. In this vein, the Report on Regulatory Commissions felt that—

> Administrative direction has not developed within the Commission. Their Chairmen are too frequently merely presiding officers at Commission meetings. No one has been responsible for planning and guiding the general program of Commission activity. ((f) Report on Regulatory Commissions, p. 4.)

Furthermore, the Commission deplored the situation which has produced a result where—

> The quantity of work in the regulatory field at the top level has been so great that the Commissions have often neglected their promotional and planning functions. ((d) Report on Regulatory Commissions, p. 4.)

The effect of this reorganization plan will be to free the other Commissioners from administrative detail and will permit them to concentrate their energies to a fuller extention the problems of regulation, planning, and effectuation of promotional policy. They will determine the general program for the Commission, and it shall be the responsibility of the Chairman to see that it is administered to the satisfaction of the full Commission.

In original concept the position of Chairman was created in the field of business administration for the purpose of giving direction and control to an organization. Otherwise, what would be had would resemble a co-equal, hydra-headed entity, without purpose or direction, consuming its energies in internecine conflict, confusion, and compounding existing zones of divided responsibility and authority. The legislation under consideration merely carries forward and rounds out the original concept of the position of chairman in any organizational structure. For, along these channels, the Commission on Organization had this to say also:

> Administration by a plural executive is universally regarded as inefficient. This has proved to be true in connection with these Commissions. Indeed, those cases where administration has been distinctly superior are cases where the administrative as distinguished from the regulatory duties have been vested in the chairman. There are many of these administrative duties. Their efficient handling will frequently make the difference between a Commission's keeping abreast of its work or falling woefully behind (Report on Regulatory Commissions, p. 5).

In further support of the recommendation to vest executive and administrative responsibility in the Chairman, it would be well to point up the views of the Commission on Organization with regard to the effect that would have on the duties and responsibilities of the other members of the Commission. The Commission emphasizes—

> This recommendation does not derogate from the statutory responsibilities placed upon the other members of the Commission. They remain exactly as they are, and because of the better functioning of the organization the Commission members will be enabled to discharge these responsibilities much more effectively. (Report on Regulatory Commissions, p. 6.)

This plan does not place in the hands of the Chairman the allocation or distribution of the work to the other members of the Commission. That would still remain the prerogative of the Commission. Such determinations as the Commission as a body would make of the type of regulatory activities that would be engaged in by each of its divisions or by individual commissioners, would be part and parcel of the general policy governing the Chairman in his direction

and supervision of the staff. In this, the accompanying message of the President, of March 13, 1950, may be cited.

> The fact that under these reorganization plans the Commission retained all substantive responsibilities deserves special emphasis. The plans only eliminate multihead supervision of internal administrative functions. The Commissions retain policy control over administrative activities, since these are subject to the general policies and regulatory decisions, findings, and determinations of the Commission.

This plan provides for the keystone of sound business management—proper delegation—urgently insisted upon by the Commission on Organization. Successful administration is always spelled out in proper delegation of administrative duties to the staff under the direction of a superior. Further, delegation to subordinates carries with it an added connotation if it is to be truly beneficial to administrative practices. It contemplates the factor of successive redelegations. Where a superior delegates to a bureau head, and the latter must return to the superior for personalized permission for successive redelegation, in the opinion of the committee, such a procedure militates against prompt dispatch and expeditious handling of multiple tasks. There is adequate safeguard against unwarranted usurpation of power in the hands of a subordinate, since each is ultimately in turn responsible to his delegating superior.

With the elimination of overlapping responsibilities, the resultant spur to initiative, and the closer supervision of staff and administrative procedures to be obtained, it is clearly demonstrated that the benefits of this reorganization plan will reward in long range economy of operations and immediate improved efficiency in service.

Designation of the Chairman

The provisions of Reorganization Plan No. 7 would transfer to the President from the Commission the designating of the Chairman of the Commission. This proposition is not novel or unique since under existing law the President names the chairman of five of the nine commissions. In this reorganization plan and the others relating to regulatory commissions, a uniformity of design would thereby be achieved. The task force of the Commission, in studying the regulatory commissions, specifically recommended that—

> * * * the Chairman of each Commission should be designated from among the members by the President * * * (p. 31).

It was the conclusion of the task force that the twin benefits redounding from this recommendation would be (*a*) an improved channel of communication; (*b*) an improved internal administration.

(*a*) *An improved channel of communication*

Communication between the Commission and the President would be improved without impairing the proper independence of the Commission. The task force reported that—

> * * * The experience of the Commissions where the President has either directly or informally named the Chairman indicates that this power does not interfere with such independence. The investigations of our staff have not revealed that the President has sought to interfere in, or influence the determination of, particular controversies or matters handled by such Commissions. On the basis of this evidence, we discount the objection that such designation would impair their essential independence, although we would give it great weight if it appeared well taken.

They went on to add that much-needed liaison was long overdue and that—

* * * This will enable the President to obtain a sympathetic hearing for broader considerations of national policy which he feels the Commission should take into account. It will still lie with the Commission as a whole to decide what weight should be given to such views, but in our opinion there should be available means for transmitting them in the most direct manner.

(*b*) *An improved internal administration*

By enjoying Presidential support the Chairman occupies a stronger position in this respect and is usually able to take more responsibility. Where such circumstances have obtained there the task force found the examples of outstanding administration (p. 33). The task force hastened to disclose that the—

* * * recommendation is not intended to deprive the other members of fully equal participation in the making of policies and substantive decisions of the agency. It is only designed to center the administration in one member, responsible to the Commission, to relieve the other members of these duties, and to assure effective supervision essential for expeditious handling of cases and orderly dispatch of business.

Our staff reports indicate that the absence of such supervision today accounts in large measure for the delays and backlogs now too common. They also clearly show that the members will seldom voluntarily delegate to the Chairman or any other official, for a substantial period, the necessary authority to perform these essential duties. On the contrary, where the members select the Chairman, he is ordinarily little more than a presiding officer without any real administrative role. This is the case in the Interstate Commerce Commission and the Federal Trade Commission, where the office rotates annually * * *.

Although the Commission on Organization took no stand on this issue, in its Report on Regulatory Commissions (pp. 4–5) it did state—

The Commission's Task Force on Regulatory Agencies makes numerous recommendations which are not included in this report but which the Commission hopes will be given thorough study and consideration by both the Congress and the Commissions concerned.

Further, in calling attention to what is wrong with the independent regulatory commissions, it cited (i)—

Coordination between these commissions and the general program of the executive departments is often loose and casual and sometimes nonexistent.

It is the position of your committee that a perusal and evaluation of the studies of the task force in the light of the foregoing can only compel the conclusion that designation of the Chairman by the President would be an admirable step toward the internal strengthening of the Commission and result in promoting its relations with the executive branch for more satisfactory fulfillment of its original role as a Commission.

Separation of Prosecutive and Judicial Functions

Plan No. 7 will not disturb the prosecutive and judicial functions of the Commission. It should be stressed that this plan will affect administrative matters alone and modifies in no way the substantive functions of the Commission. Furthermore, the plan does not affect the quasi-judicial proceedings of the Commission. In quasi-judicial proceedings the separation of responsibilities, as set out in the Administrative Procedure Act, would apply. That act contains three specific

protections against the commingling of the so-called prosecutor and judge functions.

1. It provides for an internal separation of these two responsibilities so that the same individual cannot exercise both functions (sec. 5c).

2. It provides that no one who has participated in the prosecution of a case shall participate in or even advise in the decision of the regulatory commission or the hearing examiner (sec. 5c).

3. It provides that the hearing examiners, and the commissions when hearing cases on appeal, must make the decision in each case solely from the evidence, briefs, and oral arguments submitted on the record in connection with the quasi-judicial proceeding (sec. 7d).

These safeguards for the separation of responsibilities are not upset nor do they relate to this zone of activity by the transfers of functions contained in plan No. 7.

Since these safeguards remain, there is no danger that the Chairman will become both prosecutor and judge. On the contrary, the Chairman will participate in the initiation of cases only to the degree and extent that the Commission authorizes him to do so. In the initiation of cases, as in the exercise of other responsibilities, he will be "governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make." Thus, under this provision in plan No. 7, the Commission will have authority to determine the policies governing the initiation of cases, and the Chairman will supervise the Commission's staff to assure that the policies of the Commission are carried out.

In addition, there is no ground for concern that the Chairman will exercise undue administrative control over the hearing examiners under these plans. Section 11 of the Administrative Procedure Act gives the Civil Service Commission special controls over the hearing examiners, and the Civil Service Commission has a special procedure to assure all safeguards in appointments. Once appointed, the hearing examiners may be removed only for good cause, established and determined by the Civil Service Commission. The hearing examiners receive compensation determined by the Civil Service Commission, which also has control over their promotions. The appointment of the chief hearing examiner by the Chairman would be subject to the approval of the Commission. The chief hearing examiner himself has no power of control or influence over the decisions of the hearing examiners. Likewise, even in the assignment of individual hearing examiners to cases he has little control, since the Administrative Procedure Act requires that they be assigned on a regular rotation basis. In short, the status of hearing examiners will remain exactly as it is at present.

Therefore, any suggestion that the independency of examiners by force of this plan is endangered, in the opinion of your committee, is without basis or merit. On the one hand the hearing examiners are protected by the provisions of the Administrative Procedure Act, while on the other hand the examiners of the Commission are safeguarded under the civil-service laws. The latter examiners are under civil service by Executive order of the President, the only official empowered to include agencies under the civil-service system.

Bureau of Locomotive Inspection

The locomotive inspection law was enacted by the Congress in February 1911, and has been amended from time to time through the years.

It is designed to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto. The President appoints the Director of the Locomotive Inspection Bureau and two Assistant Directors. These officials are confirmed by the Senate.

The Interstate Commerce Commission is enjoined by law with furnishing the Bureau office space and administrative facilities. Further the Interstate Commerce Commission must make provision for the appointment of an adequate staff to carry out the mission of the Bureau. The regulations under which the staff operates and in conformance with which they inspect locomotives are either regulations of the Interstate Commerce Commission, or regulations submitted by the railroad or the locomotive inspectors which have been approved by the Interstate Commerce Commission. The law recites specifically that it shall be the first duty of the inspectors to uphold the regulations of the Interstate Commerce Commission. Further, the basic legislation provides that the Director report annually to the Interstate Commerce Commission. It should be pointed out also that the budget and report of activities of this Bureau is submitted to the Congress with the budget and annual report of the Interstate Commerce Commission. It should be firmly emphasized that this plan does not parallel Reorganization Plans No. 1 to No. 6, for it does not transfer the functions of the locomotive inspectors to the Chairman. These functions remain with the locomotive inspectors as they are today. What is transferred, however, is the direction and supervision of the service, placing the Director as a Bureau Chief on a par with the Chief of the Bureau of Motor Carriers in the Interstate Commerce Commission. This would fasten the Bureau of Locomotive Inspection to the framework of the Interstate Commerce Commission for administrative purposes, but leave intact the performance of its functions. In this way the Bureau of Locomotive Inspection will be an organization which can be enabled to report to some focal point of responsibility and authority within the Interstate Commerce Commission. It would be well to add that the Chairman in exercising direction and supervision over the locomotive inspection service is subject to the same qualifications of policy, decisions, and regulatory findings, etc., of the full Commission body as he is with respect to the other bureaus and staff of the Commission. Any statement that the Chairman could change regulations under which the locomotive inspectors perform is without foundation, because these regulations are established by the Commission and are unaffected by the plan.

Finally, it should be emphasized and underscored that Reorganization Plan No. 7 in no manner disturbs the statute setting up the criteria for locomotive inspection.

Conclusions: A Summary

Your committee from the ample testimony, statements on file, and cross-examination of witnesses during the extensive hearings on this legislation has been enabled to favorably support Reorganization Plan No. 7. Accordingly, it urges the rejection of House Resolution 545.

The effect of Reorganization Plan No. 7, in general, is to transfer the executive and administrative functions of the Commission to the Chairman. There are certain restrictions upon the powers so vested in the Chairman which leave to the Commission the formulation of substantive policy while placing the authority and responsibility in the Chairman for day-to-day administration. In no manner does it expand or diminish the basic functions of the Commission, nor alter or modify the substantive laws administered by the Interstate Commerce Commission. It can be said that it is solely aimed at improving internal management.

Reorganization Plan No. 7, when adopted by the Congress, becomes as much an act of the Congress as if it were substantively drafted and evolved through normal legislative process. In the Reorganization Act of 1949, Congress delegated this power to the President, reserving the right of disapproval to itself, based among other reasons on the propinquity of the President to the problems of the executive branch, the speedier attainment of reorganization goals, and for the perfecting and better integration of the executive arm.

It accomplishes the basic recommendation of the Commission on Organization of the Executive Branch of the Government in the field of regulatory commissions, for the Commission on Organization stressed that all administrative responsibility should be vested in the Chairman.

This reorganization plan also advocates the designation of the Chairman by the President. The Task Force on Regulatory Commissions specifically recommended this much-needed step for the strengthening of the channels of communication with the Chief Executive and the results it would achieve in improved internal administration. Proper delegation to subordinates and staff, another recommendation of the Commission on Organization, is also contemplated by this legislation.

Proper safeguards have been taken to protect and preserve untrammeled the quasi-judicial and quasi-legislative functions of the Interstate Commerce Commission.

The Bureau of Locomotive Inspection is subject to the direction and control of the Chairman; however, it should be pointed out that in this light Reorganization Plan No. 7 does not parallel Reorganization Plans 1 to 6, for it does not transfer the functions of the locomotive inspectors to the Chairman. In plans 1 to 6, all of the functions, both substantive and executive and administrative, were transferred; and, in plans 7 to 13, that was not the case. The substantive functions remained where they now are. All that is transferred by this subsection of the reorganization plan is the direction and supervision of the service and placing in the Chairman the responsibility to see to it that the Bureau of Locomotive Inspection performs its functions in conformity with the law which created it in 1911, and as subsequently amended.

In the matter of savings, the Commission on Organization of the Executive Branch of the Government, in its Report on Regulatory Commissions (p. 17) pointed out that they could not be reckoned in the normal manner." Paramount savings are to be had in this field, since:

Delay and inefficiency in regulation involves large costs to the regulated industries themselves which must be passed on to the public in one method or another. Expedition will mean vast savings as well as better justice. Second, the failure to program the air lines appropriately is costly. Extensive subsidies, for example, to the air lines or to the shipping industry could probably have been greatly reduced had there been more farsighted understanding of the direction of these programs and the appropriate methods of administration. Savings of this type alone would more than outdistance the entire present cost of the regulatory program.

This plan when viewed in its proper perspective marks a tremendous stride toward improved organization and revitalized and strengthened management for regulatory commissions. Aided by this reorganization it will be found that the Interstate Commerce Commission can be enabled more effectively to carry out congressional policy in its assigned field with assurances for long-range economy and immediate improved efficiency in service.

MINORITY REPORT

House Resolution 545, designed to veto Reorganization Plan No. 7,[1] which, subject to certain minor restrictions, would transfer the functions of the Interstate Commerce Commission to the Chairman appointed by the President, should be adopted for the following reasons:

1. The plan violates the fundamental American constitutional doctrine of separation of powers as well as the system of checks and balances devised by the founding fathers to prevent encroachments on the liberties of the people. *Humphreys Executor* v. *United States* (1934) (295 U. S. 602).[2]

2. The plan would give to a President new powers, enabling him to dominate the Interstate Commerce Commission, an independent quasi-legislative, quasi-judicial agency, which is housed in, though not a part of, the executive branch of the Government.

3. The means by which these added powers are sought, consisting of the transfer of the power of selection of the Chairman of the Interstate Commerce Commission from the members of that Commission to the President, was not recommended by the Hoover Commission, and the inclusion of this feature in the plan represents a substantial departure from the proposals of the Hoover group.

4. This plan provides an entering wedge for further encroachments upon the independence of the Commission.

5. The plan unnecessarily concentrates administrative powers in the hands of the Chairman of the Commission.

6. There is no showing that adoption of the plan would bring about any economies or efficiency in Federal expenditures.

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[1] Reorganization Plan No. 7 of 1950, prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949:

INTERSTATE COMMERCE COMMISSION

SECTION 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Interstate Commerce Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

(c) The Director of Locomotive Inspection and the two Assistant Directors of Locomotive Inspection shall perform their functions subject to the direction and control of the Chairman.

SEC. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of section 1 of this reorganization plan.

SEC. 3. *Designation of Chairman.*—The functions of the Commission with respect to choosing a Chairman from among the Commissioners composing the Commission are hereby transferred to the President.

[2] This report, p. 20.

Organization of Interstate Commerce Commission

The Interstate Commerce Commission is now composed of 11 members, not more than 6 of whom may be of the same party. A member is appointed by the President, subject to the advice and consent of the Senate, for a term of 7 years or until a successor is appointed and is removable by the President only for three specific causes: inefficiency, neglect of duty, or malfeasance in office.[3] The Chairman of the Commission, under the present law, is selected by the members and serves at their pleasure.

The Commission has 15 bureaus, each of which is headed by a Director who exercises immediate administrative control. Most of the detailed administrative work is handled by the Bureau of Administration headed by the Secretary of the Commission. Each individual Commissioner is designated as reporting Commissioner for one or more bureaus and exercises general supervision over them.

Changes Proposed by Plan No. 7

Fundamental changes which would be effected by the adoption of plan No. 7 are: (*a*) The appointment of the Chairman of the Interstate Commerce Commission by the President, and (*b*) the transfer to the Chairman of the function of the Commission subject only to the requirement that the Chairman should be governed—

by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

The ultimate practical result of these two changes would be to give a President, through his appointee, executive control of a hitherto independent agency commonly regarded as an arm of the Congress and, certainly, not properly a part of the executive branch of our Government.

No Effective Limitations on Powers of Chairman in Plan No. 7

The plan, it is true, contains certain limitations on the powers transferred from the Commission to its Chairman, but it is very doubtful whether they impose any significant restraint on his authority—the whole purpose of the plan is in the contrary direction.

The requirements that the Chairman shall be governed by the general policies and regulatory decisions of the Commission is couched in vague and general language. Since no means are provided for its enforcement by the members of the Commission, it amounts to little more than a pious resolution.

The right to revise budget estimates is relatively unimportant in view of the fact that the estimates are merely requests for appropriations which are subject to the approval of the Bureau of the Budget, the President, and the Congress.

The significance of the right to allocate appropriated funds to major programs is considerably diminished by the extent to which such allocations are set forth in detail in the statutes appropriating funds for the use of the Commission.

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[3] 49 U. S. C. 11.

The power of the Commission to approve or confirm bureau heads, of course, confers the right to veto an unfit candidate, but, like the Senate's right of confirmation, gives no control over the appointee after he has assumed office. The bureau heads constitute only a small portion of the key personnel employed by the Commission in the discharge of its functions. Other key personnel, such as examiners, attorneys, traffic experts, engineers, economists, and accountants, in performing their delegated duties, not only carry most of the day-to-day work of the Commission, but their advice and recommendations naturally have a far-reaching effect on major questions of policy. A Chairman possessing the right to hire and fire, promote and demote these men, as well as to govern the assignment of duties, would have the power to exert a controlling influence on most of the activities of the Commission.

Such a concentration of power in the hands of one man might be all right in a business corporation or in the executive branch of the Government, but it is totally unsuited to a quasi-legislative, quasi-judicial body with such a vastly important jurisdiction over railroads, busses, trucks, water carriers, oil pipe lines, and other transportation agencies.

Plan Subordinates Chairman and Commission to President

After transferring these tremendous powers into the hands of the Chairman of the Interstate Commerce Commission, plan 7 then proceeds, as already noted, to make the Chairman a subordinate of the President. This is by far the worst feature of the plan and one which should be sufficient to insure its disapproval. It is fundamentally at variance with the constitutional principle of separation of powers and the system of checks and balances which the framers of the Constitution devised as a safeguard against Executive tyranny—as will appear from the subsequent analyses of the unanimous decision of the Supreme Court in *Humphrey's Executor* v. *United States*, (1934) (295 U. S. 602).

The transfer to the President of the power to select the Chairman of the Interstate Commerce Commission, so that in the future he might serve as such at the pleasure of the President, was among the proposals put forward by the Hoover Commission Task Force on Regulatory Commissions. It was not, however, approved by the Hoover Commission itself and no mention was made of it in its report.

Faulty Appraisal by Hoover Commission Task Force

While the task force recognizes that it is a debatable question whether appointment of the chairman of a regulatory commission to serve at the pleasure of the President might impair the proper independence of the commission, it nevertheless concludes that it would not have such an effect. This conclusion is wholly unjustified. It is in fact contradicted by some of the things set forth in other parts of the task force report, as well as by many events of recent governmental history. For instance, in its discussion of impartiality of regulation by an independent commission, the task force states:

> In some instances the President appears to have interested himself in the general policies of some of the agencies and to have had some influence on them (Hoover Commission Task Force Report on Regulatory Commissions, appendix N, January 1949, p. 22).

In recounting the history of the present Maritime Commission, the task force, in discussing the administration of its first two Chairmen, asserted that they—

were energetic administrators with wide experience, and they enjoyed strong backing from President Roosevelt. While important matters were decided by majority vote of the Commission, it was clear that the Chairman exercised extensive authority and leadership. They could turn to the White House for support when problems of internal management or of external relationships arose (id., p. 61).

In discussing the relationship of the Maritime Commission with the executive branch, the task force states:

In the last 3 years, the Commission has not been so amenable to Presidential influence as during the previous 9 (id., p. 62).

In its survey of the Civil Aeronautics Board, the task force says that—

the tendency of applicants to resort to pressures to try to influence Board decisions has somewhat lowered its prestige (id., p. 73).

In fact, the whole discussion of the subject by the task force is full of inconsistencies. While it talks about insuring the proper independence of the Commission, its own analysis of the subject indicates that this could not be accomplished if the Chairman should hold office at the pleasure of the President. In some respects, the task force is extremely naive, betraying a lack of appreciation of the practical operation of political forces. For instance, it says:

Designation by the President provides an acceptable channel of communication between the Commission and the President, without impairing the proper independence of the Commission (id., p. 31).

* * * * * * *

In order to facilitate such communication, it appears desirable that each commission be headed by the member most acceptable to the President. This will enable the President to obtain a sympathetic hearing for broader considerations of national policy which he feels the Commission should take into account. It will still lie with the Commission as a whole to decide what weight should be given to such views, but in our opinion there should be available means for transmitting them in the most direct manner.

This arrangement has advantages for the Commission as well. Over the long pull, it must function as a part of the Government as a whole. For one thing, it can accomplish its duties only with proper appropriations and that may require sympathetic help from the Chief Executive with respect to its budget. In other fields, where activities of an executive agency interfere with attainment of the regulatory objectives, it may be to the advantage of the Commission to have access to the President to assure that its point of view is fully understood by him.

Perhaps more important, such a relation may give the members some voice in new appointments to a commission. The incumbent members are likely to desire men of ability and character and to be able to judge the fitness of potential nominees. In the past, where the Chairman has enjoyed the confidence of the President, it has not been unusual for him to consult the Chairman for suggestions or comments. Even if this does not ensure the naming of those best qualified, it may often give the Chairman the chance to prevent the appointment of ill-fitted members. Ordinarily, the President would be unlikely to nominate a new member over the active protest of a Chairman designated by himself (id. p. 32).

It will be readily apparent that in the consultations between the President and the Chairman of the Commission such as those described by the task force, the participants would not be upon an equal basis. The representative of the Commission holding his chairmanship at the pleasure of the President, quite possibly faced with the prospect of seeking reappointment by the President as a member of the Com-

mission, perhaps feeling under some obligation because of the voice given him by the President in connection with the appointment of other members to the Commission, and certainly dependent upon the good will of the President in connection with the approval of the Commission's budget estimates, is hardly in a position to treat with the Chief Executive on terms of equality or to resist any proposals the President may make whether or not they might impair the independence of the regulatory tribunal.

The Chairman might also be further embarrassed if he should have vested in him the well-nigh complete control over the administration of the Commission involved in the other major feature of plan 7. If the President wanted someone appointed to the Commission's staff or some current officeholder promoted, or if he wanted some reassignment of duties among personnel or among administrative units, the Chairman, having the power to comply, could not fall back on what would otherwise be the necessity of presenting the subject to the membership of the Commission. He would be in a position to speak with authority and he would be under the practical necessity of complying with the President's desires.

If the Chairman is to be "the President's man," one need but recall what happened to Admiral Denfeld and Captain Crommelin to realize the absurdity of arguing that the Commissioner would be independent—have freedom of judgment and action.

Nor would the danger of misuse of Executive power in this connection be limited to the President himself. Perhaps an even greater danger would lie in pressures attempted by other members of the administration and of the party in power. The Chairman of the Commission and thus the Commission itself would as a practical matter be forced to pay attention to Cabinet officers, the President's executive assistants and secretaries, as well as perhaps the chairman of the national committee of the dominant political party and various political hangers-on.

Past Instances of Executive Pressure on Interstate Commerce Commission

In former years the Interstate Commerce Commission, in view of the quasi-judicial procedure enjoined upon it by statute, was regarded in much the same light as a court. President Wilson is reported to have said he would as soon think of proffering suggestions to the Supreme Court upon a matter before it as to suggest how the Commission should decide a case.

Nevertheless, in later years a number of attempts to bring political influence to bear upon it have come to light.

During the Harding administration—

it is said by Sharfman in The Interstate Commerce Commission, volume 2, page 455—

when the Commission was struggling with the problem of rate readjustments necessitated by the business depression which followed the period of postwar inflation, there were unmistakable evidences of attempted Executive influence. Relief to agriculture, as one aspect of special rate treatment to basic commodities, was accepted as an administration policy, and its adoption appears to have been urged upon the Commission and some of its individual members even by the President himself.

In at least one instance President Harding made a personal call on the Interstate Commerce Commission to urge his own views.

Sharfman adds, at page 456:

> And during the Hoover administration there were at least two statements issued by the President tending to prejudge matters reserved to the independent determination of the Commission.

One was with respect to the question whether there would be an increase in railway rates as a result of the decision of the Supreme Court in the *O'Fallon* case (279 U. S. 461 (1929)). The other was with respect to an agreement under Presidential auspices to the four-system merger plan of the eastern trunk-line railroads, in which the President made a statement which was properly resented by Congress as an attempt to exert improper pressure upon the Commission. Thus Senator Couzens, the chairman of the Committee on Interstate Commerce of the Senate, said:

> In view of the President's support of the plan it is questionable whether the "independent duty" of the Commission can be ascertained. Everyone knows the power and influence of the Presidential approval, and everyone knows that these Commissioners owe their positions to the President of the United States, and while it is the duty of the Senate to confirm these appointments, no name can get to the Senate without first having been selected by the President of the United States. There is rapidly growing a public opinion that the President determines the action of these independent commissions and such opinion will not be dissipated by the issuance of the present statement of the President (5 United States Daily 3313 (January 2, 1931)).

Mr. B. H. Meyer, for many years a member of the Interstate Commission, in a speech in 1928 before the University of Wisconsin chapter of Phi Beta Kappa, revealed his apprehensions over the attempts to exert political pressure upon the Commission, saying:

> I must admit, however, that occasionally attempts have been made to nibble politically at the Commission. In the past these nibbles were sometimes annoying but never harmful. It has remained for recent times to attempt to control Commission action through political channels. These attempts were made boldly and at times with fury. Every one of them has failed. I do not believe they ever will succeed but it will be a sorry day for government if they ever should succeed.

A good deal of additional evidence of improper political pressures on the Commission could be mentioned if space permitted. A fairly full discussion of other incidents will be found in Sharfman, The Interstate Commerce Commission, volume 2, pages 452–489.

The hearings before our committee, brief as they were, pointed up the truth of the observation of the Hoover task force that—

> carriers, shippers, and students of transportation appear to agree that the independent status of the Commission should be maintained.

Their representatives, together with those of railway employees and members of the bar of the Commission, appeared before the committee, voicing a strong protest against plan 7, expressing the view that it might well prove disastrous in operation. The Association of American Railroads, American Short Line Railroad Association, American Trucking Associations, Railway Labor Executives' Association, Transportation Association of America, and Freight Forwarders Institute all appeared to urge the adoption of House Resolution 545, the resolution to veto the plan.

The gist of their position may well be summarized in a statement made by the late Joseph B. Eastman, one of the greatest members of the Interstate Commerce Commission—many times chairman—who

also served as Director of Defense Transportation in World War II. In an address entitled "Credo," reprinted in the American Bar Association Journal, May 1944 (p. 266), giving the epitome of his experience as a member of regulatory commissions, State and Federal, he stated:

> With the country as big and complex as it is, administrative tribunals like the Interstate Commerce Commission are necessities. Probably we shall have more rather than less. To be successful, they must be masters of their own souls, and known to be such. It is the duty of the President to determine their personnel through the power of appointment, and it is the duty of Congress to determine by statute the policies which they are to administer; but in the administration of those policies these tribunals must not be under the domination or influence of either the President or Congress or of anything else than their own independent judgment of the facts and the law. They must be in position and ready to give free and untrammeled advice to both the President and Congress at any time upon request. Political domination will ruin such a tribunal. I have seen this happen many times, particularly in the States.

The same opinion was expressed by Speaker Rayburn, who for many years was chairman of the House Committee on Interstate and Foreign Commerce, in an address before the National Association of Railroad and Utility Commissioners in 1934, when he said:

> It would have been a great mistake to have placed the regulation of transportation in an executive department. The Members of Congress would have been daily annoyed with the request to see the appropriate member of the Cabinet with reference to reparations on some shipment of scrap iron or on rates or on any one of the thousands of rates that are published from time to time. In my judgment, it would be a great mistake to create any agency which would in any way duplicate or interfere with the work of the Commission. We can get results that are most satisfactory by placing all the responsibility in one place. In my mind, that one place should be removed as far from the maelstrom and melee of politics as legislative ingenuity can devise.

The Congress should not fail to heed the mature views of these distinguished public servants.

Plan No. 7 disregards the fundamental principle of our Government that the legislative, executive, and judicial powers is each independent of the other.

The case of *Humphrey's Executor* v. *United States* (1934) (295 U. S. 602), disclosed that President Roosevelt had the same attitude toward independent regulatory commissions as some of his immediate predecessors. That case arose out of his attempt to remove Commissioner Humphrey of the Federal Trade Commission, for the reason, as stated by the President, that "I do not feel that your mind and my mind go along together on either the policies or the administering of the Federal Trade Commission," and "that the aims and purposes of the administration with respect to the work of the Commission can be carried out most effectively with personnel of my own selection."

The case presented squarely the question whether a member of an independent regulatory commission held office at the pleasure of the President, subject to removal by him at any time for failure to carry out Presidential policies. This in turn involved the further question whether such a commission is a part of the executive branch of the Government or is independent of it. (And that is the vital question involved in the consideration of plan 7.) The Supreme Court, in a unanimous opinion, held against the President on both points. The Court held that the President was without the power of removal and

that the Federal Trade Commission, like the Interstate Commerce Commission, is not a part of the executive branch of the Government. The Court said, at pages 625–626:

Thus, the language of the act, the legislative reports, and the general purposes of the legislation as reflected by the debates, all combine to demonstrate the congressional intent to create a body of experts who shall gain experience by length of service—a body which shall be independent of executive authority, except in its selection, and free to exercise its judgment without the leave or hindrance of any other official or any department of the Government. To the accomplishment of these purposes, it is clear that Congress was of opinion that length and certainty of tenure would vitally contribute. And to hold that, nevertheless, the members of the Commission continue in office at the mere will of the President, might be to thwart, in large measure, the very ends which Congress sought to realize by definitely fixing the term of office. * * *

In its unanimous opinion the Supreme Court further said, page 628:

The Federal Trade Commission is an administrative body created by Congress to carry into effect legislative policies embodied in the statute in accordance with the legislative standard therein prescribed, and to perform other specified duties as a legislative or as a judicial aid. Such a body cannot in any proper sense be characterized as an arm or an eye of the Executive. Its duties are performed without Executive leave, and, in the contemplation of the statute, must be free from Executive control.

* * * * * * *

To the extent that it exercises any Executive function—as distinguished from Executive power in the constitutional sense—it does so in the discharge and effectuation of its quasi-legislative or quasi-judicial powers, or as an agency of the legislative or judicial departments of the Government.

Again the Court said, at page 629:

We think it plain under the Constitution that illimitable power of removal is not possessed by the President in respect of officers of the character of those just named. The authority of Congress, in creating quasi-legislative or quasi-judicial agencies, to require them to act in discharge of their duties independently of executive control cannot well be doubted; and that authority includes, as an appropriate incident, power to fix the period during which they shall continue in office, and to forbid their removal except for cause in the meantime. For it is quite evident that one who holds his office only during the pleasure of another cannot be depended upon to maintain an attitude of independence against the latter's will.

The fundamental necessity of maintaining each of the three general departments of Government entirely free from the control or coercive influence, direct or indirect, of either of the others, has often been stressed and is hardly open to serious question. So much is implied in the very fact of the separation of the powers of these departments by the Constitution; and in the rule which recognizes their essential coequality. The sound application of a principle that makes one master in his own house precludes him from imposing his control in the house of another who is master there.

On page 630, the court further said:

The power of removal here claimed for the President falls within this principle, since its coercive influence threatens the independence of a commission, which is not only wholly disconnected from the executive department, but which, as already fully appears, was created by Congress as a means of carrying into operation legislative and judicial powers, and as an agency of the legislative and judicial departments.

The same may be said of the Commissioner of Patents, his office and his subordinates.

The Court, while conceding that the President had the power to remove an executive officer, reviewed the expressions of James Madison

on the question of the President's power of removal,[4] showing that while Madison maintained that the President had the inherent right to remove officers of the executive departments, he did not believe that this rule could properly be extended to the case of an officer whose functions partook of a judicial quality.

In II Sharfman on Interstate Commerce Commission, pages 452–454, we find these statements:

> In view of the tremendous scope of the sphere of administrative discretion, as contemplated by statute, as exercised in practice, and as sustained by the courts, it is a matter of crucial importance that the Commission be free from such control by external influences as may impair its functioning as an expert and impartial tribunal * * *.
>
> The exertion of pressure by the executive branch of the Government in matters confided to the Commission's jurisdiction may make itself felt in two principal ways: First, by seeking to influence the adjustment of controversies on the horizon or in actual process of determination; and second, by seeking to mold the general course or direction of regulatory policy through manipulation of the appointing power. Such pressure, however indirect or intangible the forms which it may assume, proceeds on the assumption, express or implied, that the Commission is part of the national administration and hence is a proper medium for the expression of political policy. * * * While the basic character of the Commission as a functioning body is dependent upon all three branches of government—upon the President, who is charged with making appointments; upon the Congress, by which it was created and through which its powers and duties are conferred; and upon the courts, by which its determinations are reviewed and the nature and scope of its authority defined—in the actual performance of its tasks, within the sphere of its lawful jurisdiction, it is, as now constituted, an independent tribunal. The statutory requirement as to membership, specifying that not more than a majority shall belong to one political party, is obviously designed to assure, as it has in fact produced, a nonpartisan body. The controlling legislative standards are, of course, a general expression of political policy, but the large exercise of discretion which they inherently entail and the orderly processes of administration which they expressly contemplate are unquestionably a recognition of the need of expert and unbiased judgment by the enforcing tribunal. * * * The Commission is no more a part of the national administration—in the sense of being an instrument for furthering the particular political ends of the party in power—than is the Supreme Court, and Executive influence is as manifestly out of place in the one case as it would be in the other. Even a formal change of the Commission's status, by way of subordination to the executive branch of the Government, would constitute a backward step. The issue has been succinctly stated by one of the members of the Commission: "What purpose * * * would be served by bringing an independent commission within the jurisdiction of some executive department or Cabinet officer? I can conceive of no purpose except to influence in some way the judgment of the Commission or to bring it within the sway of some administration policy. But plainly, it seems to me, the cold neutrality of the Commission, to use the expression of the Supreme Court, ought rather to be safeguarded jealously against precisely such extraneous influences. They are as out of place in the case of a commission as they would be in the case of a court."

A Quasi-Judicial, Quasi-Legislative Agency

The situation with reference to the position of the Commissioner of Patents and his duties is similar. Obviously, making the Commissioner of Patents and his subordinates subject to the Secretary of Commerce would make possible the domination of that quasi-judicial, quasi-legislative agency by the head of a department who must inevitably, if he is to continue in office, represent the political philoso-

[4] There is no question but that the President may remove an officer appointed by him unless a legislative act provides to the contrary. (See *Ex parte Hennen*, 13 Pet. 225, 230, 259, 260 (1839); *Blake* v. *United States*, 103 U. S. 227, 231 (1881); *United States* v. *Allred*, 155 U. S. 591, 594, (1895); *Keim* v. *United States*, 177 U. S. 290, 293, 294 (1900); *Reagan* v. *United States*, 182 U. S. 419, 426 (1901); *Shurtleff* v. *United States*, 189 U. S. 311, 316 (1903); *Norris* v. *United States*, 257 U. S. 77 (1921), 272 U. S. 52, 164 (1926).)

Equally certain is it that the President, unless so authorized by the statute, has no power to remove a quasi-judicial or quasi-legislative appointee (*Humphrey* v. *United States*, 295 U. S. 602 (1935)).

phy of the administration to which he is responsible, by whom he may be removed.

A consideration of plan No. 7 in the light of this decision of the Supreme Court reveals the President's basic misconception of the status of quasi-legislative, quasi-judicial tribunals like the Federal Trade Commission and the Interstate Commerce Commission. In the message to Congress of March 13, dealing collectively with plans Nos. 1 to 13, those plans are characterized as a bold approach to the problem of delineating responsibility and authority for the management of the executive branch. The purpose of providing that the Chairman of the Interstate Commerce Commission shall hold office as such at the pleasure of the President is expressly stated to be to provide clearer lines of management responsibility in the executive branch.

But as the unanimous decision of the court in the Humphrey case makes clear, the Interstate Commerce Commission is not in the executive branch. It is instead a quasi-legislative, quasi-judicial tribunal independent of the executive branch which cannot be made subordinate to the President without violating the fundamental American constitutional principle of separation of powers and without the wholly improper subversion of legislative and judicial functions.

The Congress should resist this attempted aggrandizement of executive power at the expense of the tribunal which has been fittingly called the arm of Congress.

No Economies From Adoption of Plan 7

The claim of the majority that plan 7 would produce economies in the expenditure of Federal funds is without substantial foundation.

All of the independent regulatory commissions taken together spend only a tiny fraction of the Federal budget. "Actually the budget of these independent regulatory commissions," the Hoover Commission said, "is small in comparison to the expenditures of the executive departments, amounting in the fiscal year ending in 1949 to only $57,333,000 exclusive of expenditures on operating programs," and, it should be added, exclusive of expenditures of the Federal Reserve System.

For the next ensuing fiscal year, where the President has recommended a budget of over 42 billion dollars the item for the Interstate Commerce Commission is only 11.8 million dollars. The majority claims that some part of this money could be saved by the proposed reorganization. But it discreetly refrained from so much as hazarding a guess as to how much the saving would be.

The President in transmitting plan 7 was likewise unable to estimate any amount that would be saved, using a stereotyped form of expression identical with the one used in many of the other plans put forward for reasons other than economy in expenditures:

> The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

One may be pardoned for believing that if any savings were likely to be accomplished by the reorganization they could and would be

pointed out or at least made the subject of an estimate. When the savings are so vague and indefinite that they cannot be even estimated as to amount, they may be properly viewed with skepticism. That the plan gives no promise of either efficiency or economy is evident from the testimony of Frederick J. Lawton, Director of the Bureau of the Budget, given before the Senate Committee on Expenditures in the Executive Departments.[5]

[5] Senate expenditures hearing, April 24, 1950 (plans 7, 8, 9, and 11):

"The CHAIRMAN. Mr. Lawton, just what improvement with respect to efficiency in administration do you think the plans provide? What improvement now is going to result from the plans that will make the agency more efficient?

"Mr. LAWTON. The exact and specific improvements that may be made?

"The CHAIRMAN. Just set them out for us.

"Mr. LAWTON. I cannot spell out a specific improvement saying that this function will be performed better or that function will be performed better. The purpose of these plans is not to make a specific improvement in any one given function of any one of these commissions; it is to provide the framework through which that sort of improvement can be more readily and more easily accomplished by having one person responsible for day-to-day administration and whose duty it is to oversee the internal operation and administration of the Commission and to make the changes. It is much easier for one person to deal with it than it is for a group to deal with it.

"The CHAIRMAN. What deficiencies exist now which we are undertaking to correct by this plan? Let's put our finger on something now we are trying to remedy. What are the deficiencies now or the weaknesses of the present system we are undertaking to strengthen and correct?

"Mr. LAWTON. Again, if you are asking for a specific weakness in a specific Commission, I cannot point out one on that basis. It is the theory of this plan that there is a weakness in administration by a group of people over day-to-day administrative functions; that it derogates from the main responsibilities of the Commission, which is the regulatory function, substantive function, given them by law; that it is a waste, a bad use of the time of the Commission, to require full Commission approval of day-to-day administrative matters, and it can best be delegated. And some commissions have done it by administrative action themselves.

"The CHAIRMAN. These commissions have been created quite a long time ago; some longer than others, of course. You say it is the theory of these plans that there is something that needs to be corrected, and yet you cannot point out what it is. It seems to me if the commissions are not functioning efficiently over this long period of years, when you come in and ask for the set-up to be changed we ought to be able to put our finger on something that needs to be changed, something that is wrong. I am wondering if we can get right down to the crux of the thing and get into the record just what is wrong and in what respect it wil be remedied by these plans.

"Mr. LAWTON. As to the specific operation, as I have said, of any specific item, I cannot point that out to the committee.

"The CHAIRMAN. Well, can you point out to us whether any economies are going to be effected? Can you give us anything definite in that direction?

"Mr. LAWTON. No, sir.

"The CHAIRMAN. Senator Benton, any questions?

"Senator BENTON. Just picking up your own question, Mr. Chairman, on page 3, Mr. Lawton—and this is traced back to what Senator Johnson was worried about—you state there are cases where the administration has been distinctly superior and there are cases where the administrative as distinguished from the regulatory duties have been vested in the Chairman.

"Well, if these proposals stem from case examples, it would seem to me that you would be able to provide illustrations of efficiency and economy in line with the chairman's question. Of course, what I am more concerned with is—going back to Senator Johnson's testimony—whether you can provide illustrations that would demonstrate that this kind of efficiency in the hands of the Chairman has not in the past proved to be tyrannical, to use his word. Could you give case examples of that kind of your own experience or provide them for the record?

"Mr. LAWTON. Well, as to the question of whether it is tyrannical or not, the Federal Communications Commission passed Administrative Order No. 8, June 1949, delegating to the Chairman of the Commission the responsibility for the general administration of the internal affairs, and 'he shall keep the Commission advised concerning his actions under this delegation of authority.'

"That is a relatively broad delegation of authority covering several pages and can be placed in the record.

"Senator BENTON. I am concerned not with the general issue, but on the plus side where is the efficiency, on the minus side where is the danger or the risk? The chairman asked you what efficiency we achieve, and Senator Johnson points out to us that he thinks there is a grave risk or danger of tyranny. And I wonder if these case examples that you referred to in general terms on page 3, whether you have any material that might illuminate us on the question—either side of the question.

"Mr. LAWTON. Well, there are two separate questions: One, the question of whether it is——

"Senator BENTON. That is right; two questions.

"Mr. LAWTON. Whether the commissions are afraid of control by the chairmen. I think the evidence to the contrary on that point is the delegations that have been given in the FCC and the Federal Power Commission, for example, of administrative functions to the chairmen.

"Senator BENTON. And it has not resulted in any evidence of tyranny?

"Mr. LAWTON. Apparently not, because the delegation has not been withdrawn. It is within the power of the Commission to delegate and to take it back.

"Senator BENTON. May I say I think that is an important point, Mr. Chairman, in line with Senator Johnson's testimony. Has any delegation ever been given to a chairman and then taken back because it made for tyranny or inefficiency?

"Mr. LAWTON. I do not know, sir. I know that these are two current cases that have been delegated.

"The CHAIRMAN. Well, that power to take back will not remain with the Commission here, will it, because this is a complete transfer? So the power to take back would not reside in the Commission, would it, after this went into effect?

"Mr. LAWTON. It will not."

* * * * * * *

"The CHAIRMAN. The point I am making is that the Commission itself loses control. In other words, the law says he shall be governed by their general policies, but the Commission itself has no remedy to enforce its policies other than to appeal to the Congress or to the President, does it?

"Mr. LAWTON. That is correct."

In any event, the possible savings, if any, would seem to be of a minor character. The wasteful spending in the Federal Government does not take place in the Interstate Commerce Commission or in the other independent regulatory bodies. It takes place in the executive department where the real field for economy lies. Under no conceivable circumstances could the minor savings that might or might not be possible under the plan justify the destruction of the independence of a regulatory agency like the Interstate Commerce Commission.

Experience demonstrates that, if savings in connection with Federal expenditures are to be made, in most instances they will be made not by the writing of a law but by the attitude and the practices of those who administer the laws, and who, to date, have shown little, if any, disposition to practice either.

Conclusion

What has been said demonstrates:

(*a*) The Interstate Commerce Commission is a quasi-legislative, quasi-judicial body and as such is an independent regulatory commission, separate and apart from the executive branch of the Government.[6]

(*b*) There have been past attempts by the executive branch [7]—by Presidents of both parties—to exert pressure upon the Commission to influence the discharge of its duties, just as there have been similar pressures on other independent regulatory commissions—in spite of the usual requirement imposed by the statutes under which they operate of notice and hearing, which "implies both the privilege of introducing evidence and the duty of deciding in accordance with it." [8]

(*c*) The Interstate Commerce Commission in the past, by virtue of its independent legal status, has been able to resist these pressures.

(*d*) If the independence of the Commission is destroyed or substantially impaired, it may no longer be able to resist these improper encroachments.

(*e*) The proposal made in plan 7 to concentrate the administrative authority of the Commission in the office of the Chairman and then to ordain that the Chairman shall hold office as such as the pleasure of the President carries with it the danger voiced by the Supreme Court in *Humphrey's Executor* v. *United States* (1934) (295 U. S. 602) that "it is quite evident that one who holds his office only during the pleasure of another cannot be depended upon to maintain an attitude of independence against the latter's will."

(*f*) The whole plan violates the principle of separation of powers and the system of checks and balances established by the Constitution as interpreted by the Court in Humphrey's case—the great landmark of constitutional law on the subject of the relation of independent regulatory commissions to the other branches of the Federal Government.

(*g*) There is no assurance that the adoption of the plan will bring either economy or efficiency—the primary objectives of the Hoover Commission's recommendations.

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[6] *Humphrey's Executor* v. *United States* (295 U. S. 602–628).
[7] This report, pp. 18–20.
[8] *Chicago Junction Case* (1924) (264 U. S. 258, 265).

(*h*) The adoption of the plan will add to the present bureaucratic power and influence.

It is respectfully submitted that House Resolution 545 should be passed and Reorganization Plan 7 disapproved. To accomplish this desirable result, on the roll call the vote should be "Aye" which, in effect, is a vote for rejection of plan No. 7.

Respectfully submitted.

CLARE E. HOFFMAN.

○

Union Calendar No. 739

81ST CONGRESS
2D SESSION

H. RES. 545

[Report No. 1971]

IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 1950

Mr. CROSSER submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 1, 1950

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

RESOLUTION

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 7 transmitted to the Congress by the President on March 13, 1950.

Union Calendar No. 739

81ST CONGRESS
2D SESSION

H. RES. 545

[Report No. 1971]

RESOLUTION

Declaring that the House of Representatives does not favor the Reorganization Plan Numbered 7 transmitted to the Congress by the President on March 13, 1950.

By Mr. CROSSER

APRIL 18, 1950

Referred to the Committee on Expenditures in the Executive Departments

MAY 1, 1950

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Calendar No. 1575

81st Congress, 2d Session | SENATE | Report No. 1567

REORGANIZATION PLAN NO. 7 OF 1950, PROVIDING FOR THE REORGANIZATION OF THE INTERSTATE COMMERCE COMMISSION

MAY 16 (legislative day, MARCH 29), 1950.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

together with the

MINORITY VIEWS

[To accompany S. Res. 253]

The Committee on Expenditures in the Executive Departments, to whom was referred Senate Resolution 253, expressing disapproval of Reorganization Plan No. 7 of 1950 (reorganizing the Interstate Commerce Commission), having considered the same, report favorably thereon, and recommend that the resolution do pass. The effect of the adoption by the Senate of Senate Resolution 253 will be to prevent Reorganization Plan No. 7 from becoming effective. The committee in executive session on May 9, 1950, took favorable action upon Senate Resolution 253 by a vote of 6 to 5.

SUMMARY OF COMMITTEE'S FINDINGS

In reporting Senate Resolution 253 favorably, thus disapproving Reorganization Plan No. 7, the majority of the committee were in general agreement with the following views presented by opposition witnesses, who stated that the plan—

(1) Would impair the independence of the Interstate Commerce Commission as an instrument of the Congress.

(2) Would provide for an extension of the executive branch of the Government into the regulatory field.

(3) Would imperil the bipartisan complexion of the Interstate Commerce Commission by providing for Presidential appointment of its Chairman.

(4) Would subject the Interstate Commerce Commission to domination by its Chairman since all administrative responsibility would be vested in him.

(5) Would, by vesting all appointive power in the Chairman, subject Commission personnel to his exclusive control.

(6) Would tend to alienate the other Commissioners from the Commission staff which would be directly responsible to the Chairman.

(7) Would provide a minimum of restraint upon the administrative powers transferred to the Chairman.

(8) Would promote "efficiency" at a price (in terms of concentration of power) too high to pay.

(9) Would not bring about any substantial economy in the expenditure of public funds.

(10) Far exceeds the recommendations of the Hoover Commission as hereinafter noted.

It seems obvious that lodging the power of appointment and supervision of personnel in the Chairman would add immeasurably to that officer's influence in the disposition of all matters coming before the Commission for decision. That a very real danger exists, in that his exclusive responsibility in recommending appointments could have an undesirable effect upon regulatory proceedings, should not be ignored. It is possible other Commissioners in some instances would be restricted to merely a right of veto of the Chairman's wishes as reflected in recommendations from the staff. Such subservience of staff to the Chairman would deprive the Commission of the staff loyalty essential to free, independent operation.

In addition to the foregoing considerations, the committee feels under obligation to direct the attention of the Senate to one feature of this plan which appears to be in conflict with the provisions of the Reorganization Act. Section 3 of plan 7 reads as follows:

SEC. 3. *Designation of Chairman.*—The functions of the Commission with respect to choosing a Chairman from among the Commissioners composing the Commission are hereby transferred to the President.

The Interstate Commerce Act, under which the Interstate Commerce Commission was established, makes no provision for selection of a chairman. In practice the Commission selects a chairman annually and the practice is now to rotate the chairmanship. Section 5 (a) (4) of the Reorganization Act of 1949 provides that—

SEC. 5. (a) No reorganization plan shall provide for, and no reorganization under this Act shall have the effect of. * * *

(4) authorizing any agency to exercise any function which is not expressly authorized by law at the time the plan is transmitted to the Congress.

As noted above, there is no provision of law expressly authorizing the exercise of the function of choosing a chairman of the Interstate Commerce Commission, and it follows therefore that section 3 of plan 7 violates the limitations on reorganizations under section 5 of the Reorganization Act of 1949. While the committee is not disposed to make any particular issue of this seeming illegality, because of practical considerations involved, it desires to point out that if the objection is valid it may jeopardize the operation of the plan and possibly cause confusion if tested in court.

ANALYSIS OF REORGANIZATION PLAN NO. 7

In effect, plan No. 7 accomplishes three far-reaching objectives: (1) It vests all administrative responsibility for the Interstate Commerce Commission in its Chairman; (2) it transfers the power to select the Chairman from the members of the Commission to the President; and (3) it authorizes the Chairman to delegate administrative responsibility vested in him as he deems wise. (The full text of the plan, and the President's message accompanying it, are included as appendix A of this report.)

The result of adoption by the Congress of plan No. 7 would be to take away from the 11 Interstate Commerce Commissioners 4 important functions which have been vested in them since the Commission's inception in 1887. These functions which, under provisions of the plan, would be vested exclusively in the Commission's Chairman, are—

(1) The appointment and supervision of personnel;

(2) The assignment and distribution of work among administrative units of the Commission;

(3) The use and expenditure of Commission funds; and

(4) The appointment of hearing examiners.

As noted above, the plan also would deprive the 11 Commissioners of the power to elect the Commission's Chairman, vesting such authority in the President.

Further, in addition to general "supervision" of personnel, the plan would make ICC's Director and two Assistant Directors of Locomotive Inspection responsible to the Chairman's direction and control.

Limitations upon this concentration of administrative responsibility provide (1) that the Chairman shall be governed by the general policies, etc., of the Commission; (2) that the appointment of the heads of major administrative units shall be subject to approval of the Commission; (3) that regularly employed personnel in the immediate offices of the Commissioners other than the Chairman shall not be affected by the plan; and (4) that the Commission shall retain its functions of revising budget estimates and determining distribution of appropriated funds for major programs.

The restraint imposed upon the Chairman by the above-mentioned limitations was challenged by witnesses who appeared in opposition to the plan. The consensus was that, possibly with exception of point 4, the effectiveness of these "saving clauses" upon the sweeping administrative powers specifically transferred to the Chairman by section 1 would be slight, as hereinafter noted.

HEARINGS

The committee on April 24, 25, and 26, 1950, conducted hearings jointly upon resolutions of disapproval introduced in the Senate upon reorganization plans submitted to the Eighty-first Congress, second session, as follows:

S. Res. 253—Reorganization Plan No. 7 (Interstate Commerce Commission).

S. Res. 254—Reorganization Plan No. 8 (Federal Trade Commission).

S. Res. 255—Reorganization Plan No. 9 (Federal Power Commission).

S. Res. 256—Reorganization Plan No. 11 (Federal Communications Commission).

The testimony of 21 witnesses was heard. Three witnesses, Frederick J. Lawton, Director, Bureau of the Budget; James H. Rowe, former member of the Hoover Commission; and Harold Leventhal, representing the Citizens Committee for the Hoover Report, testified in favor of all four plans. Three witnesses, Senator Edwin C. Johnson, of Colorado, who introduced the resolutions of disapproval on the plans; Senator Ernest W. McFarland, of Arizona; and C. A. Miller, vice president and general counsel, American Short Line Railroad Association, testified in opposition to all four plans.

The following 10 witnesses presented testimony exclusively in opposition to Reorganization Plan No. 7 affecting the Interstate Commerce Commission:

Jonathan C. Gibson, vice president and general counsel, Santa Fe Railroad, representing the Association of American Railroads.

J. Ninian Beall, chairman, Association of Interstate Commerce Commission Practitioners.

R. Granville Curry, Association of ICC Practitioners.

Edgar S. Idol, American Trucking Association.

Giles Morrow, Freight Forwarders Institute.

Arthur L. Winn, Jr., Association of Interstate Commerce Commission Practitioners.

Donald D. Conn, Transportation Association of America.

A. E. Lyon, Railway Labor Executive Association.

Herschel A. Hollopeter, transportation director of Indiana State Chamber of Commerce.

W. H. Ott, Jr., National Council of Private Motor Truck Owners, Inc.

Chairman J. M. Johnson of the Interstate Commerce Commission advised the committee that the problem to which plan 7 is directed "appears to us to be a matter of policy for the Congress." A statement opposing plan 7 was submitted to the committee by E. F. Lacey, executive secretary of the National Industrial Traffic League.

A statement was filed with the committee by Dr. James K. Pollock, director, department of political science, University of Michigan, and a former member of the Hoover Commission, endorsing all four plans. A supplemental statement was filed by Mr. Lawton.

FORCEFUL OPPOSITION TO PLAN NO. 7

Witnesses who opposed adoption of plan No. 7 were solidly unified in their conviction that the proposal is clearly an invasion by the executive branch of the Government of the legislative branch, in defiance of the Constitution's time-tested separation of powers among the executive, legislative, and judicial branches.

Holding that the plan would jeopardize the character of the Interstate Commerce Commission, Senator Johnson, chairman of the Senate Committee on Interstate and Foreign Commerce, stated:

> The plans [in reference to the four plans upon which hearings were held] if adopted, will mark the beginning of the end of these four—and other Commissions—as quasi-judicial independent "arms of the Congress."

He continued:

The plain truth is, plan No. 7 would make the Interstate Commerce Commission, now an arm of the Congress, dependent and subordinate to the Executive and thereby subordinate to the policy-determining power of the Executive, including not merely the functions of carrying out the laws but the political emphasis and direction of the administration of the laws. In the creation of quasi-legislative, quasi-judicial establishments such as the Interstate Commerce Commission, Congress has deliberately, consistently, and carefully refrained from setting up one-man agencies. Instead, it has created nonpartisan or bipartisan agencies responsible primarily to the Congress for the execution of regulatory laws and laws directly affecting regulatory policy. A plural-membership agency is necessary if we are to have bipartisan nonpolitical representation. Plan No. 7 breaks up the equality of duties and responsibilities of the Commissioners and leaves us, for all practical purposes, with a one-man Commission. The Chairman would run the show (with a "clear line of control from the President") and the other Commissioners would perform the duties, if any, that he saw fit to assign to them (hearings, p. 23).

In Senator Johnson's judgment the transfer from the Interstate Commerce Commission to its Chairman of—

the control and supervision of hearing examiners, thus covertly amending substantive law [would strike] a telling blow at the separation of prosecutory and judicial functions.

The Senator stated:

Under the reorganization proposal the Chairman of the ICC is given wide authority with respect to the employment of personnel and the internal administration of the agency. Lawyers who practice before that and the other three commissions and who have studied these plans tell me that in their opinion this authority would include personnel control over the Hearing Examiner Division, despite the provisions of the Administrative Procedure Act. In essence, this means that the separation of judicial and prosecutory functions sought to be provided by the Administrative Procedure Act would be vitiated. When this new power proposed to be given to the Chairman is coupled with the fact that the President would choose the Chairman, it should be readily apparent that what is proposed under the reorganization plan is of far-reaching importance and significance in the case of quasi-judicial agencies which have heretofore always been regarded as arms of the Congress (hearings, p. 22).

The chairman of the Committee on Interstate and Foreign Commerce vigorously challenged the Hoover Commission's reasoning for recommending the transferring of all administrative responsibility to regulatory commission chairmen, the Commission having stated that—

Administration by a plural executive is universally regarded as inefficient. This has proved to be true in connection with these (regulatory) commissions.

The Senator's comments follow:

I think this is the place to analyze this argument and once and for all nail it down. I have great respect for the work of the Hoover Commission, and for many of its members, who are my personal friends. In my opinion, it did a great job and deserves hearty commendation for its thankless task. * * * I concede, in fact, that our Government is more wasteful and more inefficient, generally speaking, than a streamlined dictatorship, and that its operating efficiency does not look good when placed alongside that of a smooth-working, private American business organization. But is that what we are striving for? Are we forgetting that we are trying to maintain a democratic system of representative government here in America? All of us, I am sure, would have no hesitation in choosing between a highly efficient administration by a dictator in a totalitarian state and a less efficient administration under the checks and balances of democracy. * * * I am even willing to concede that giving the Executive greater authority to make efficient the purely administrative agencies of Government is desirable, even necessary. But I am not willing to concede the Executive that authority over "arms of Congress" and all the weight of

constitutional and legislative history bears me out in this latter contention. In the executive agencies he is the manager and has constitutional powers and responsibilities to improve them and make them more efficient. But in the quasi-judicial agencies the Congress is the board of directors and once it turns over its authority to a general manager, it has no practical means of recalling that power; it is lost forever. Already we have in the last two decades taken long steps down the road to abdication of constitutional powers; we must not and should not trod unwittingly farther down that road. If efficiency and streamlining is the goal, then the answer is the kind of government that Hitler and Mussolini tried and Stalin is essaying now (hearings, p. 19).

Senator McFarland of Arizona, J. C. Gibson, vice president and general counsel of the Santa Fe Railroad, who testified in behalf of the Association of American Railroads, and other witnesses presented additional evidence of the inherent dangers of Executive domination of the Interstate Commerce Commission through the adoption of plan No. 7—evidence which was not refuted successfully by proponents of the plan.

That Presidential appointment of the Chairman would impair the independence of the Commission as an instrument of the Congress as well as imperil its bipartisan operation by exerting influence from without, was made clear. Although the Hoover Commission in its final report on regulatory commissions made no such recommendation concerning the Interstate Commerce Commission, the Commission's task force committee, which conducted the research upon which the final reports were based, made such a recommendation on the grounds this action would provide—

an acceptable channel of communication between the Commission and the President without impairing * * * independence of the Commission (task-force report on regulatory commissions, p. 31).

In the views of the task force, such a channel of communication is required for the following among other reasons:

This will enable the President to obtain a sympathetic hearing for broader considerations of national policy which he feels the Commission should take into account (task-force report on regulatory commissions, p. 32).

Harold Leventhal, formerly executive officer of the Hoover Commission task force, who represented the Citizens Committee for the Hoover Report at the hearings, in testifying before the committee on April 25, made the task force's intent even more plain in the following language:

The commissions, though independent, do not live in a vacuum. They may and rightfully should give consideration to the President's views on national policy, without in any way being bound by those views (hearings, p. 128).

The majority of the committee believes that it is not too difficult to detect the close affinity between the establishment of clear lines of management responsibility in the executive branch from the President on down, and the establishment of acceptable channels of communication from the Chief Executive to the independent regulatory commissions by Presidential appointment of their chairmen. In either instance the Chief Executive's influence would be brought to bear, in the first, rightfully, on the Government's departments; in the second, wrongfully, on the independent commissions.

That a chairman appointed by the President would not be more attentive to the Chief Executive's directions than if he were elected by his fellow commission members, as under the present organizational structure, is wishful thinking. Further, it cannot be denied

with reason that the other commissioners would be subjected to greater influence by a chairman appointed by the President than by a chairman elected in rotation by them, for disagreement with a chairman designated by the President quite conceivably could on occasions become disagreement with the President, who has the power to reappoint commissioners to continuing terms if he desires, subject only to confirmation by the Senate.

The reason supplied for Presidential appointment—to provide a channel of communication to the Commission—seems of doubtful substance unless the intent is to bring greater Executive influence upon the regulatory agencies, as normal channels of communication obviously exist under the present system of election by the respective members. The actual intent appears to be to provide for greater executive direction by the President rather than communication to him.

A statement by former Chairman Joseph B. Eastman of the Interstate Commerce Commission, made shortly before his death upon the observance of his 25 years' service with ICC, applies squarely to the necessity for absolute independence of the Government's regulatory institutions from Presidential, congressional, or other influence. Mr. Eastman said:

> With the country as big and complex as it is, administrative tribunals like the Interstate Commerce Commission are necessities. Probably we shall have more rather than less. To be successful, they must be masters of their own souls, and known to be such. It is the duty of the President to determine their personnel through the power of appointment, and it is the duty of Congress to determine by statute the policies which they are to administer; *but in the administration of those policies these tribunals must not be under the domination or influence of either the President or Congress, nor of anything else than their own independent judgment of the facts and the law.* They must be in position and ready to give free and untrammeled advice to both the President and Congress at any time upon request. Political domination will ruin such a tribunal. I have seen this happen many times, particularly in the States. [Emphasis added.]

While the Hoover Commission task force reaches the conclusion that Presidential appointment of the Chairman would not impair the independence of the Commission, it recognizes the inherent dangers therein. In speaking of the first two Chairmen of the Maritime Commission (Joseph P. Kennedy, 1937–38; Emory S. Land 1938-46), it noted they—

> were energetic administrators with wide experience * * * they enjoyed strong backing from President Roosevelt. * * * While important matters were decided by majority vote of the Commission it was clear that the Chairmen exercised extensive authority and leadership. They could turn to the White House for support when problems * * * arose (task-force report on regulatory commissions, p. 61).

Vesting of all appointive power over the Interstate Commerce Commission staff in the Chairman could easily result in the Chairman's domination of the staff if he were so inclined. The limitation the heads of major administrative units must be approved by the Commission, just as certain Presidential appointments in the Government are subject to approval by the Senate, is desirable to be sure, but the power of original selection is the all-important one—not the power of approval. The reluctance of Commissioners to oppose their Chairman's selection of candidates would be normal—their opposition unusual.

Staff members appointed by the Chairman would be responsible to him, not the Commissioners, individually or as a group. They quite naturally would look to the Chairman for direction rather than to the other Commissioners, would as a consequence be more receptive to his philosophy than that of his fellow members, and would be inclined to support his views rather than those of his colleagues. Such a realinement of staff could conceivably serve to alienate the other Commissioners from the staffs, and the staffs from them.

It has been said that just decision evolves from the judgment of a majority of tribunal members of equal standing after complete deliberation of facts. Such decisions obviously should reflect the combined judgment of the deliberative body after critical analysis of the facts in the case, and of the divergent views. It stands to reason that this recognized process is imperiled by giving any one member of a judicial tribunal greater authority than other members. A tribunal chairman, appointed by the President and completely in command of the staff would beyond reasonable doubt exercise greater authority than his fellow members. His very choice as chairman by the President would serve to distinguish him from other members of the tribunal by the reflection of influence if nothing else.

Witnesses consistently expressed their convictions that plan 7 conflicts with provisions of the Administrative Procedure Act of 1946 by giving the Chairman of the Interstate Commerce Commission appointment and supervision of hearing examiners. It was noted that hearing examiners are exempted from plans 1–6 (affecting executive departments) but not from plans 7–13 (affecting regulatory agencies), giving rise to the fear that the separation of functions provided by the Administrative Procedure Act would be vitiated by plans 7–13.[1]

While the committee is not fully convinced that the plan violates the Administrative Procedure Act with respect to hearing examiners, it should be pointed out that by concentrating in the Chairman the power to appoint hearing examiners (now exercised by the Commission) it gives him the concomitant power to discharge such examiners. It follows, and hardly needs mentioning here, that the power to discharge could be used in a dictatorial manner to bring pressures on examiners to render decisions in accord with the economic thinking of the Chairman, or of the administration in power. It also should be pointed out that the Chairman, under this authority, would be able to pick and choose his hearing examiners in special cases to accomplish the same purpose; namely, to obtain decisions which accord with his own personal views. Such concentration of power in one man as previously affirmed would tend to disrupt the nonpartisan, independent character of the Commission as a whole.

The doubtful efficacy of limitations upon the administrative powers vested in the Chairman was stressed. Witnesses pointed out that the requirement that the Chairman shall be governed by the general policies, regulatory decisions, and findings of the Commission was so broad in terms that its very vagueness raised doubts as to its enforcement in actual practice. The right reserved to the Commission to revise budget estimates was held of little significance in view of the fact that such estimates are merely requests subject to approval by the Bureau of the Budget, the President, and the Congress. It was pointed out that the importance of the right reserved to the Commis-

[1] See appendix B for summation of the effects provisions of Reorganization Plans 7, 8, 9, and 11 would have on the appointment of regulatory staffs.

sion to allocate appropriated funds to major programs is diminished considerably by appropriation statutes which detail such allocations to a great extent. The right to approve major administrative appointments was conceded to be subordinate to the initial power of appointment.

That plan No. 7 far exceeds the intent of the Hoover Commission cannot be contested by any reasonable interpretation of its report on regulatory agencies. Nowhere in the report does the Hoover Commission recommend that the power to select the Interstate Commerce Commission's Chairman be transferred to the President. Its silence on this issue amounts to outright rejection of its task force's recommendation that such action be taken. Also, the Hoover Commission made no recommendation that the functions of the Bureau of Locomotive Inspection be directed by the Chairman of the ICC. To the contrary the Commission recommended in its report on regulatory commissions that these functions (referred to as "equipment inspection") be transferred to the Department of Commerce (recommendation 10, p. 12 of report).

No convincing proof that great improvement in the efficiency of any specific operating function of the Commission would result from adoption of the plan was presented, although considerable testimony was given as to general improvements in efficiency resulting from clearer lines of authority, better administrative management, and detachment of Commissioners from administrative detail. The type of efficiency which could result from so-called one-man control, however, is diametrically contrary to the democratic processes the Constitution established, as Senator Johnson so cogently pointed out.

No evidence that substantial economies in the expenditure of public funds would result from adoption of Reorganization Plan No. 7 was presented by any witness.

CONCLUSIONS

In expressing its disapproval of Reorganization Plan No. 7, the majority of the Committee on Expenditures in the Executive Departments wish to stress with all the force at their command that it is the farthest from their desire to oppose any recommendation of the Commission on Organization of the Executive Branch which would improve the efficiency of the Government or result in Government economy. However, grave doubts exist that plan No. 7 would accomplish either.

Further, no other reasonable conclusion can be reached than that Reorganization Plan No. 7 goes far beyond the recommendations of the Commission on Organization, and far beyond the Commission's intent. It should be recalled that the Hoover Commission's mission was not to invade the fields of Government policy, but to limit itself strictly to *organization* problems. The Commission recognized this in its concluding report to the Congress when (in discussing its approach to its studies) it stated:

> As a matter of principle, the Commission has not been concerned with matters of substantive policy (p. 2 of concluding report).

The issue involved is whether or not the proposed reorganizations recommended by the Hoover Commission should be effectuated by substantive legislative action or by reorganization plans. The

committee is of the firm opinion that the basic problem in regard to the reorganization of quasi-judicial commissions, involving as it does the preservation of their independence and accountability to Congress, is one which must be determined by Congress through its regularly constituted committees. These committees originated the basic law under which the commissions operate and are constantly conducting studies directed toward perfecting these agencies where improvements are indicated. It was pointed out at the hearings that the Senate Committee on Interstate and Foreign Commerce had held hearings totaling 45 days, heard 145 witnesses, and received statements from 800 other persons on problems relating to the activities of the Federal Communications Commission alone in the 6 years preceding action in 1949 on S. 1973, amendments to the Communications Act of 1934, which passed the Senate August 9, 1949.

In regard to the Interstate Commerce Commission, extensive studies are being continuously made by the Senate Committee on Interstate and Foreign Commerce, and it is the firm conviction of the majority of this committee that any changes in substantive law, which would be brought about if Reorganization Plan No. 7 is permitted to become law, would deprive the Congress, and thus the people, of the benefit of such findings as may have been developed by the committees of the Congress.

Further, the entire history of the enabling legislation of all regulatory commissions and the painstakingly detailed nature of subsequent hearings in relation thereto afford incontrovertible testimony that, in permitting these plans to become law, the Congress would necessarily by reason of the time element be acting in undue haste and, this committee believes, ill-advisedly.

At hearings before the Senate Committee on Expenditures in the Executive Departments in behalf of the adoption of the Reorganization Act of 1949, on February 7, 1949, the Honorable Herbert Hoover, in commenting on the proposition then pending before the committee for the specific exemptions of quasi-judicial commissions, stated that—

> there is an undue fear, I think, that Presidents are likely to interfere with the quasi-judicial or quasi-legislative functions of the regulatory bodies. Any action in that quarter would, I believe, be only to embrace in the executive branch of the Government the actual executive functions now being performed by these so-called regulatory agencies * * *. There has been overalarm, I think, that the President intends, or any President will intend, to invade the legislative and judicial functions of those bodies. * * * In my view they are not, in their regulatory functions, a part of the executive branch.

In the judgment of a majority of the committee, plan No. 7, by indirection at least, would—

> interfere with the quasi-judicial or quasi-legislative functions of the regulatory bodies—

as heretofore stated.

Too great emphasis cannot be given to the statement of the spokesman for the Citizens Committee for the Hoover Report who testified:

> The commissions, though independent, do not live in a vacuum. They may and rightfully should give consideration to the President's views on national policy, without in any way being bound by those views.

Although qualified, the statement clearly indicates the grave danger which exists—that the Chairman would in fact be subservient to the will of the President as one of his appointees—pledged to carry out his policies as required of any other high-level Federal official.

APPENDIX A

[H. Doc. No. 511, 81st Cong., 2d sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING REORGANIZATION PLAN NO. 7 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE INTERSTATE COMMERCE COMMISSION

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 7 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Interstate Commerce Commission. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 7 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 7 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

INTERSTATE COMMERCE COMMISSION

SECTION 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Interstate Commerce Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

(c) The Director of Locomotive Inspection and the two Assistant Directors of Locomotive Inspection shall perform their functions subject to the direction and control of the Chairman.

SEC. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of section 1 of this reorganization plan.

SEC. 3. *Designation of Chairman.*—The functions of the Commission with respect to choosing a Chairman from among the Commissioners composing the Commission are hereby transferred to the President.

APPENDIX B

April 28, 1950.

Staff Memorandum No. 81–2–55.
Subject: Appointment of Regulatory Commission Staffs.

In accordance with Senator Mundt's request of Monday, April 24, 1950, the first day of the hearings on Senate Resolutions Nos. 253, 254, 255, and 256, expressing disapproval, respectively, of Reorganization Plans Nos. 7, 8, 9, and 11 of 1950, the staff has accumulated and presents herewith factual information relating to the appointment of the Commissioners and staffs of the four regulatory Commissions involved. The plans are, respectively, in relation to the Interstate Commerce Commission, the Federal Trade Commission, the Federal Power Commission, and the Federal Communications Commission.

Senator Mundt's request arose from the following testimony contained in the statement of Mr. Frederick J. Lawton, Director of the Bureau of the Budget:

"Furthermore, I see no grounds for concern that the Chairmen will exercise undue administrative control over the hearing examiners under these plans. Section 11 of the Administrative Procedure Act gives the Civil Service Commission special controls over the examiners, and the Civil Service Commission has a special procedure to assure all safeguards in appointments."

Section 11 of the Administrative Procedure Act (Public Law 404, 79th Cong., approved June 11, 1946) is as follows:

"Sec. 11. Subject to the civil-service and other laws to the extent not inconsistent with this Act, there shall be appointed by and for each agency as many qualified and competent examiners as may be necessary for proceedings pursuant to sections 7 and 8, who shall be assigned to cases in rotation so far as practicable and shall perform no duties inconsistent with their duties and responsibilities as examiners. Examiners shall be removable by the agency in which they are employed only for good cause established and determined by the Civil Service Commission (hereinafter called the Commission) after opportunity for hearing and upon the record thereof. Examiners shall receive compensation prescribed by the Commission independently of agency recommendations or ratings and in accordance with the Classification Act of 1923, as amended, except that the provisions of paragraphs (2) and (3) of subsection (b) of section 7 of said Act, as amended, and the provisions of section 9 of said Act, as amended, shall not be applicable. Agencies occasionally or temporarily insufficiently staffed may utilize examiners selected by the Commission from and with the consent of other agencies. For the purposes of this section, the Commission is authorized to make investigations, require reports by agencies, issue reports, including an annual report to the Congress, promulgate rules, appoint such advisory committees as may be deemed necessary, recommend legislation, subpena witnesses or records, and pay witness fees as established for the United States courts."

STAFF CONCLUSIONS

In transmitting these reorganization plans of 1950 to the Congress, the President submitted a special message relating to plans Nos. 1 to 13, inclusive. The first 6 of these plans accomplish with respect to executive departments substantially that which is accomplished by plans Nos. 7 through 13 with respect to regulatory commissions, with the important distinction that plans Nos. 1 to 6, inclusive, specifically exempt the functions of hearings examiners from administrative control by the respective Secretaries. No such exemption is included in plans 7 to 13, relating to regulatory commissions. Further elaboration on this phase of the plans is included hereinafter.

The President has stated in that message that the plans relating to the regulatory commissions "carry into effect the first and most important recommendation of the Commission on Organization relating to regulatory commissions." That recommendation is as follows:

"We recommend that all administrative responsibility be vested in the Chairman of the Commission."

In support of this recommendation the Hoover Commission observed:

"The volume of this administrative work will, in every instance, require the appointment of an executive director. He should be responsible *to the Commission* through the Chairman." [Italics supplied.]

The Hoover Commission thus and otherwise made it very plain that there was to be no infringement upon the "regulatory" functions of the commissions and it made a sincere effort to distinguish between such functions and those of an administrative nature which can best be described as "housekeeping duties."

There does not seem to be in the four plans with which we are here concerned the establishment of a dividing line such as obviously contemplated by the Hoover Commission. The language of the plans is ambiguous and subject to too many reasonable interpretations to permit of a positive construction thereof.

The staff wishes to provide one illustration of the potentialities of the plans.

A major source of concern with respect to the plans appears to arise from apprehension lest hearings of the Commissions be subjected to the undue influence of one man. We understand that in each Commission there is a chief hearing examiner (the title may vary) who is responsible for assignment of the individual hearing examiners. Unless the administrative unit under the chief hearing examiner, and encompassing the hearing examiners, were designated as and construed to be a "major administrative unit" within the meaning of section 1 (b) (2) of each of the four plans (and it is important to remember that this is purely a matter of construction and organization), this man would, under the reorganization plans, be appointed at the sole discretion of the Chairman of each Commission. While the chief hearing examiner would, of course, be bound by the requirement in section 11 of the Administrative Procedure Act that hearing examiners "shall be assigned to the cases in rotation so far as practicable," we point out elsewhere herein the leeway which is granted by the phrase "so far as practicable." Practicability is an intangible thing and is governed by many and varying considerations. It is pertinent that an official of one of these four commissions confessed to the staff his belief that it would be more appropriate for a chief hearing examiner to report to the Commission as a whole rather than to the Chairman alone.

Finally, attention is directed to that distinction referred to above and which could be highly significant, as between the provisions of plans Nos. 1 to 6, on one hand, and plans Nos. 7 to 13, on the other hand, in relation to hearing examiners. The first six plans, transferring to the secretaries of the six executive departments involved functions and authorities now lodged elsewhere in their respective departments, specifically exempt from such transfer functions vested in hearing examiners. This, as has been said, is a distinctive feature of each of these six plans and, in his covering message, the President emphasized that the functions of hearing examiners in those six departments are retained in their present status.

On the other hand, plans Nos. 7 to 13, relating to the seven regulatory Commissions, make no reservation whatsoever with respect to hearing examiners and it would seem logically to follow that, by the very absence of an exemption in the plans covering the regulatory commissions, the activities of hearing examiners therein would by the plans be made subservient to the Chairman thereof. Argument may be made that vesting in a Chairman of a Commission appointive authority does not necessarily lodge in him influence in the matter of performance of duties, but such an argument is clearly a specious one. Inferentially, if not otherwise, the omission from the plans affecting regulatory commissions of such an outstanding feature included in the plans affecting the executive departments would tend to permit the exertion of pressures on the hearing examiners, regardless of the intent of any chairman to exert such influence.

CIVIL SERVICE COMMISSION—PROCEDURE RELATING TO HEARING EXAMINERS

In consideration of the fact that the crux of the opposition to these four plans seems to be a fear of too much concentration of power in the hands of the Chairmen of the several Commissions, leading, among other things, to possible pressure on hearing examiners in matters of policy and attitudes, the staff has sought advice of the Civil Service Commission solely on the subject of the appointment of such personnel.

It is plain that the language of section 11 of the Administrative Procedure Act, quoted above, does not entirely bear out Mr. Lawton's remarks (also quoted above) relating thereto, and the report which has been received from the Civil Service Commission supports that view.

The Civil Service Commission advises that, upon the taking effect of section 11 of the Administrative Procedure Act, all hearing examiners then holding appointments and who had a classified civil service status were, upon recommendation of the employing agencies, given conditional appointments. Thereafter, those examiners were required to compete in a civil service examination and, if found to be qualified by the Commission under the Commission's standards, were given permanent appointments. We are advised that that transitory process has now been completed and that hereafter all hearing examiners throughout the Federal Government will be appointed from civil service registers, by reinstatement, by transfer, or by promotion.

When an entirely new appointment of a hearing examiner is to be made, the prospective employing agency will request a register of eligibles from the Civil Service Commission and selection must be made from the three highest eligibles thereon. Under existing law, the selecting and appointing power is vested in the agency itself, specifically, as here concerned, in the full membership of each of four regulatory Commissions. Under the reorganization plans, were they to become effective, that power of selection and appointment would rest solely with the Chairman of each Commission.

In the filling of a position of hearing examiner through reinstatement or by transfer, the entire authority is vested in each Commission as a whole. Should the reorganization plans become effective, that entire authority would be in each Chairman. The process of transfer or reinstatement must be qualified to the extent that, both under existing law and under the situation that would exist pursuant to the reorganization plans, no transfer or reinstatement of a hearing examiner can or could occur without the prior approval of the Civil Service Commission.

Under present law and existing regulations of the Civil Service Commission, an agency wishing to fill a position of hearing examiner through promotion must so recommend to the Civil Service Commission which, if the proposed examiner's qualifications meet prescribed standards, will approve the action. The important fact here is that now the authority to make the recommendation is lodged in the regulatory Commission as a whole, whereas under the reorganization plans that authority would be vested in the respective Chairmen.

The Commission advises further, and it should be made note of here, that the provision in section 11 of the Administrative Procedure Act that examiners' compensation is to be fixed independently by the Civil Service Commission irrespective of agency recommendations, has raised the issue of whether authority for filling a position of hearing examiner by promotion is entirely outside the jurisdiction of the employing agency, being vested rather in the Civil Service Commission. This matter is before the Attorney General for opinion. Should the question be decided in the affirmative, it would seem that any promotional appointment of a hearing examiner would in nowise be affected by the reorganization plan.

As distinguished from the foregoing discussion relating to the filling of positions of hearing examiners, there is also the pertinent question of administrative control of such personnel. The staff finds that, under existing law as related to the four regulatory Commissions involved in these four reorganization plans, such administrative control is within the province of each Commission as a whole. The Civil Service Commission holds the view that the rotation requirement in section 11 of the Administrative Procedure Act effectively would prevent one hearing examiner being favored over another either under present or proposed law. The point which the Civil Service Commission seems to be making is that such rotation would prevent either a whole Commission or the Chairman thereof from consistently exercising undue influence by preferential assignments. However, it is a fact that the theory behind the rotation requirement is not always supported by actual practice, particularly in agencies employing small numbers of hearing examiners. Consistent rotation is impracticable and the attention of this committee is directed to the fact that rotation is required only "so far as practicable." (See the first sentence of sec. 11 of the Administrative Procedure Act quoted above.)

The foregoing discussion is general, that is, it deals with hearing examiners from the perspective of the Civil Service Commission. The actual mechanics governing personnel actions of all kinds is found to vary throughout the four regulatory agencies here involved and each one is covered separately in the ensuing sections of this memorandum.

INTERSTATE COMMERCE COMMISSION

The Interstate Commerce Commission consists of 11 members appointed by the President by and with the advice and consent of the Senate. This would not be changed under Reorganization Plan No. 7 of 1950.

The Chairman of the Commission is now elected annually by the whole Commission but under the reorganization plan he would be appointed by the President.

At the present time, heads of major administrative units are appointed by the whole Commission. Under the reorganization plan they would be appointed by the Chairman subject to the approval of the whole Commission. The assistant heads of major administrative units likewise are now appointed by the whole Commission, whereas under the reorganization plan they would be appointed by the Chairman alone without review by the Commission.

Under the law, the Interstate Commerce Commission has made provision for internal organization segregated into five divisions, of which Division 1 has supervision of administrative matters including the appointment of certain categories of personnel. The Division is administered by three Commissioners plus the Chairman of the whole Commission who serves ex officio.

Division 1, under existing law, has authority for appointment of hearing examiners and all other categories of personnel of and above a certain grade. Should the reorganization plan become effective, those groups, including hearing examiners, would be appointed by the Chairman alone.

Other members of the Commission staff, of and below a certain specified grade, are now appointed by the Secretary of the Commission in conformance with a delegation of authority. These persons would, pursuant to the reorganization plan be appointed on the sole authority of the Chairman who could, of course, continue, enlarge, or diminish the existing delegation of appointing authority now held by the Secretary.

Through a special segregating provision, the Director of Locomotive Inspection and the two Assistant Directors of Locomotive Inspection are at the present time appointed by the President by and with the advice and consent of the Senate. Should the reorganization plan become effective, there would be no change as to appointment of these individuals but the plan states that they "shall perform their functions subject to the direction and control of the Chairman", whereas at the present time the duties of those three positions are performed under the direction and control of a Commissioner to whom the Bureau of Locomotive Inspection is responsible.

FEDERAL TRADE COMMISSION

The Federal Trade Commission consists of five members appointed by the President by and with the advice and consent of the Senate. The chairmanship rotates annually according to seniority. Under Reorganization Plan No. 8 of 1950, the Chairman would henceforth be designated by the President.

In all other legal respects the staff of the Federal Trade Commission is appointed in accordance with regulations of the Civil Service Commission and applicable law. Functionally, and through voluntary action of the Federal Trade Commission as a whole, whichever member is currently the Chairman has responsibility for all administrative activities. In actual practice, the incumbent of the single position of secretary, administrative officer, and executive director holds delegation of authority from the entire Commission for the appointment and supervision of personnel, for the distribution of business, for the use and expenditure of funds, and related duties. The staff is advised that this delegation of authority is absolute and that, despite general oversight of the functions by the current Chairman, the secretary, administrative officer, and executive director is required to report, and is responsible, only to the Commission as a whole.

The Federal Trade Commission has advised us that, under Reorganization Plan No. 8 of 1950, there would not necessarily be any practical change as between present and proposed procedures in these relations. However, it must be borne in mind that the existing plan of operation as to these matters in the Federal Trade Commission is voluntary and entirely at the discretion of the entire Commission. Under the proposed reorganization, the voluntary and discretionary elements would be substituted for by the vesting by law of the entire authority in the Chairman, except that appointment of the heads of major administrative units would be subject to the approval of the whole Commission and that personnel employed regularly and full time in the immediate offices of the respective Commissioners would not be affected.

FEDERAL POWER COMMISSION

The Federal Power Commission consists of five members appointed by the President by and with the advice and consent of the Senate. Under existing law, the Chairman is elected by the whole Commission and serves as Chairman until the expiration of his term of office. Under the reorganization plan, the choosing of the Chairman would be transferred from the whole Commission to the President. The plan is silent as to whether a Chairman once chosen by the President would continue as Chairman until the expiration of the term of his office.

Under existing law, the Federal Power Commission has authority to do whatever is necessary to carry out the provisions of the Federal Power Act and it has made certain delegations of authority with respect to personnel actions of the entire Commission staff, exclusive of the Commissioners themselves.

Under present orders, all Commission personnel of and below a certain specified grade are appointed by authority of the Chairman and of the Chief of the Personnel and Administrative Services Division. All other personnel, and this group includes hearing examiners, are appointed by authority of a majority of the Commissioners.

It would appear that, through voluntary action of the Federal Power Commission, authority in personnel matters has already been highly concentrated but it is plain that, should Reorganization Plan No. 9 of 1950 become effective, it would no longer on any grounds be necessary for the approval of a majority of the Commissioners to be given to any personnel actions (except as qualified below), including those related to hearing examiners. Of course, under the plan, the Chairman, who would then be in sole authority in these matters, could continue, enlarge, or diminish the existing delegation of authority to the Chief of the Personnel and Administrative Services Division, but that delegation is essentially one of method. The significant thing is, that should this plan become effective, personnel matters in the Federal Power Commission would be under the sole control of the Chairman with these two qualifications: The appointment of heads of major administrative units would be subject to approval by the entire Commission, and personnel employed regularly and full-time in the immediate office of each Commissioner would not be affected.

FEDERAL COMMUNICATIONS COMMISSION

Of the five agencies from which information was required in the compilation of this memorandum, only the Federal Communications Commission has declined to cooperate. In view of the necessity for expeditious accumulation of the data herein, the staff made request by telephone for the several reports required. We are advised by the Federal Communications Commission that the material requested by us had been prepared but the delivery thereof was countermanded by "the Commissioner," understood to be Mr. Wayne Coy, the Commission Chairman. The reason given for this countermanding is that Mr. Coy had testified on Tuesday, April 25, 1950, before this committee with respect to Reorganization Plan No. 11 of 1950, and that a scrutiny of his testimony would disclose those facts which we sought.

The staff of this committee has not only read Mr. Coy's testimony but had also been in attendance at the time of its personal delivery. Although there is not available therefrom complete information as required for this memorandum, in view of the declination of the Federal Communications Commission to comply with our request it is necessary that we extract from the testimony such pertinent data as may be available.

It appears that the Federal Communications Commission has already done voluntarily substantially that which would be done by the reorganization plan. Under date of June 2, 1949, the Commission issued its Administrative Order No. 8 which provided for delegation to the Chairman of the responsibility for the general administration of the internal affairs of the Commission with the proviso that he keep the Commission advised concerning actions taken under the delegation. The order sets out three types of actions which the Chairman is authorized to take thereunder, one of which relates to the appointment of personnel. The pertinent part of the order in this particular respect is as follows:

"E. There is hereby established the Personnel Division. This Division shall be under the direction of the Personnel Officer, who under the supervision and direction of the Executive Officer shall have the following duties and responsibilities:

> "1. To supervise all phases of personnel administration within the Commission including position classification, selection and placement, promotion-from-within, efficiency rating program, training, employee counselling and other employee services, handling employee grievances, and reduction in force, except that all actions affecting the appointment or promotion of employees in grades CAF–11, P–4 and above (now grade GS–11 and above), shall be submitted to the Commission for approval * * *" [Parenthetical insert supplied.]

There is not available to the staff information as to whether or not the positions of hearing examiners are included in that particular group whose appointments must be submitted to the Commission for approval. Nevertheless, it is plain

from Mr. Coy's testimony and from Administrative Order No. 8 that, although certain staff appointing actions are now subject to the approval of the entire Commission, under the situation which would prevail should the reorganization plan become effective those matters would be under the sole authority of the Chairman, with the qualification common to the plans which reserves to the approval of the entire Commission the appointment of the heads of major administrative units and exempts from the plan personnel employed regularly and full-time in the immediate offices of the respective Commissioners.

Since the original advice from the Federal Communications Commission, referred to in the first paragraph of this section, a letter has been received confirming the foregoing statement of the personnel appointment situation there. However, the staff had, in each verbal request to the several agencies involved in this memorandum, emphasized the Committee's interest in the appointment of hearing examiners. Mr. Coy's letter is silent as to that segment of the Commission's staff.

THOMAS A. SAPPINGTON,
Professional Staff Member.

Approved:
WALTER L. REYNOLDS,
Staff Director.

MINORITY VIEWS

We believe that Reorganization Plan No. 7,[1] affecting reorganizations in the Interstate Commerce Commission, should be approved just as the majority of this committee has approved plans Nos. 8, 9, and 11, effecting similar reorganizations in the Federal Trade Commission, Federal Power Commission, and Federal Communications Commission. All four of these plans aim to bring about the same kind of improvements in the administration of the regulatory Commissions. All of these plans are intended to strengthen the functioning of the Commissions by making their Chairmen responsible for details of day-to-day administration. The objective is to extricate the Commission members from time-consuming administrative details and to afford them greater time for concentration on the essential problems of regulation of vital segments of our domestic economy. Reorganization Plans Nos. 7, 8, and 9 provide for Presidential designation of the Chairman of the Interstate Commerce Commission, the Federal Trade Commission, and the Federal Power Commission. Designation by the President is now the practice with respect to three of the seven Commissions covered by plans Nos. 7–13, all of which plans are similar in concept. We submit that by the identical nature of these plans the same reasons which led the majority of this committee to approve plans Nos. 8, 9, and 11 should compel approval of plan No. 7.

The President, in transmitting plans Nos. 7–13 to the Congress, made the administrative nature of these plans very clear. He also made plain that the objective of these plans is to enable the commissions to discharge their substantive functions more effectively by

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[1] Reorganization Plan No. 7 of 1950, prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949:

INTERSTATE COMMERCE COMMISSION

SECTION 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Interstate Commerce Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

(c) The Director of Locomotive Inspection and the two Assistant Directors of Locomotive Inspection shall perform their functions subject to the direction and control of the Chairman.

SEC. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of section 1 of this reorganization plan.

SEC. 3. *Designation of Chairman.*—The functions of the Commission with respect to choosing a Chairman from among the Commissioners composing the Commission are hereby transferred to the President.

improving their basic method of internal administration. Plans Nos. 7, 8, 9, and 11 all establish one basic pattern, yet, by some curious reasoning, plans Nos. 8, 9, and 11 have received the approval of the majority of this committee while plan No. 7 has been disapproved. Whatever the fallacies in the reasoning of the opponents of plans Nos. 7, 8, 9, and 11, they at least are consistent in recognizing that the content of all of these plans is identical and the objectives the same.

It takes a major effort to focus on the main issues in the face of the diversionary arguments of the opponents to these plans. Their arguments ramble all over the lot and take in almost everything outside of the real purpose of the plans. They would take us off into a consideration of the nature of the substantive functions of the Commissions, as if these plans were an attempt to change such functions or the operations of the Commissions with respect to such functions. The opponents variously label these plans "encroachment by the President" and "violation of separation of powers and checks and balances." Explicitly and by inference they paint a picture of an insidious influence lurking behind these plans, seeking to extend its tentacles over the Commissions. Various allusions are made to court decisions in the course of these side excursions in an effort to convince us that these plans are really an attempt to alter in some fundamental way the very nature of our Government. The excesses to which the opponents are driven in their arguments persuade us instead that their assertions have little relevance and these plans should be approved on their merits.

Too much emphasis cannot be placed on the fact that the opponents of these plans do not in any way enlighten us about the kinds of matters for which responsibility is transferred by these plans to the Chairmen. The plain fact is that these plans do not affect the so-called quasi-judicial and quasi-legislative functions of these Commissions. To the contrary, the plans would free the Commissioners from having to spend their time on administrative and executive functions which must necessarily be performed if organizational routine is to continue. Up to now, however, time spent on such matters has seriously impinged on the time of individual Commissioners which is required for the performance of their regulatory functions. This was the finding of the Commission on Organization of the Executive Branch (Hoover Commission) and its distinguished Task Force on Regulatory Agencies.

Testimony before this committee by representation of the task force and regulation Commission members gave ample illustrations of the kinds of matters which are intended by these plans to be administered by the Chairmen, instead of by the Commission as a whole. Mr. Wayne Coy, Chairman of the Federal Communications Commission, testified as follows:

> My views might be put in this somewhat paradoxical manner: I am for the plan because it strengthens the entire Commission, the Chairman and every other Commissioner. The reasoning is quite simple. If the Commission is working on the problem of obtaining a thousand feet of floor space it is not working on the problem of the United States position on the utilization of some portion of the valuable radio spectrum. If the Commission is considering the classification of a new position or the reclassification of an old position it cannot give that time to the disposition of the clear-channel case or the television proceedings. If the Commission is giving its time to a determination of priorities to be given to material waiting for processing in our duplicating division then it becomes silly. But the

necessity to make such decisions, or to cause them to be made, is an insistent one. The authority for such day-to-day decisions must flow from a central place. It cannot effectively flow from the Commission itself because the basis of appeal, namely, to the full Commission with consequent delay and lack of any real authority, is as broad as the Commission membership.

Mr. Harold Leventhal, staff director of the task force which studied the Commissions, had the following to say:

For example, our survey officers investigating the Federal Trade Commission found there was taken up at Commission meetings such matters as the organization of the stenographers' pool. The question of how correspondence should be routed was considered. At first all the personnel appointments, including clerks and stenographers, was considered. After a certain amount of discussion, prompted by our staff officers, that was reduced to permit clerks and stenographers to be picked without coming to the Commission. But junior professional employees, P–1's, P–2's, P–3 attorneys, all of their appointments went up and presumably the qualifications of the applicant were considered by the Commission, in banc.

Mr. E. M. Webster, member of the Federal Communications Commission, testified:

However, instead of having the freedom of action which supposedly goes with executive authority, I found myself not only inundated in details but actually having to perform work that should have been done by our staff. This was very frustrating for me, and I believe it is worth mentioning to this committee that such lack of job satisfaction is perhaps an outstanding factor in our difficulties when we try to recruit able executives for important Government posts. * * *

It is necessary for me to state here that my remarks should not be taken as an indictment of any of the individuals involved. It is the system under which we operate, not individuals, which is at fault. Can the compromises that inevitably occur in the decisions of seven men result in maximum efficiency in administrative matters? Can a body which requires a quorum and whose membership varies with the number of Commissioners present achieve continuity and effectiveness on administrative matters? Can seven very busy men, no one of whom is held responsible for administrative matters, really develop sufficient management consciousness to promote efficiency?

This process of having to gear administrative action to the desires of seven distinct personalities who are generally so overburdened with substantive problems that they cannot take the necessary time to inform themselves on administrative matters is costly. What is everybody's business is nobody's business. I am very glad indeed to give up any prerogatives that I may possess in regard to the limited administrative functions in order to create a more favorable administrative environment and give me more time for other problems. It is only by affixing responsibility for administrative action in one individual that you can insure that such action will take place promptly when needed.

If these arguments are compelling, as they should be, in favor of approving plans Nos. 8, 9, and 11, they are even more compelling in favor of approving plan No. 7. Plans Nos. 8, 9, and 11 would institute this desirable reform in the case of commissions with a membership of five or seven. How much more desirable it is to free the 11 members of the Interstate Commerce Commission from having to devote their time to such matters.

Opposition has also been expressed to the provision in these plans for the designation of the Chairmen by the President. Here the opposition has conjured up a specter of Presidential "encroachment." It is important, therefore, to restate the real reasons for this recommendation of the task force in its own words:

We recommend that the Chairman of each Commission should be designated from among the members by the President and should serve as Chairman at his pleasure. This proposal is closely related to our recommendations, discussed in the next chapter, that the Chairman should be recognized as the administrative head of the agency.

The designation of the Chairman by the President is not a novel proposal. Under existing law, the President names the Chairmen of five of the nine Commissions, one to serve for 4 years, one for 1 year, and the other three apparently at pleasure. While the other four Commissions select their own Chairmen, the members of two of them have frequently chosen a member informally suggested by the President (Securities and Exchange Commission and Federal Power Commission).

Our recommendation is merely that the practice of selection by the President be made the general rule by statute, and that the Chairman serve as such at the pleasure of the President in all cases, although protected against removal as a member.

Designation by the President provides an acceptable channel of communication between the Commission and the President, without impairing the proper independence of the Commission.

* * * * * * *

The second important advantage of Presidential designation is that it assists in achieving the objective of improving the internal administration of the Commissions.

Again, for some strange reason these objectives were found meritorious in the case of the other Commissions but held inapplicable when applied to the Interstate Commerce Commission, the agency affected by plan No. 7. Logic demands the approval of all these plans, because all are based on precisely the same premises and are designed to facilitate better management in the regulatory Commissions. That plan No. 7 should be singled out for unfavorable recommendation when its sister plans are approved is a high tribute to pressure-group tactics. Indeed, it is such an exemplary lesson that, unless the Senate rejects Senate Resolution 253, disapproving plan No. 7, it will be an open invitation to other groups to press their special interests to a successful conclusion. Desirable reorganization in the interest of a better-functioning governmental structure will be forfeited.

The same diversionary arguments were urged by the opponents against all four plans, plans Nos. 7, 8, 9, and 11. All four plans are identical in their effect. If plan No. 7 is not approved the success of the opposition cannot be attributed, therefore, to the forensic effect of their contentions. The most substantial basis for the success of the opponents can easily be found by reading the roster of the regulated interests (and their lawyers) which appeared in opposition. [2] Whether their fears are realistic or not, the requlated interests see a threat to their established way of doing business with the Government in every possible reorganization. At the approach of change they emulate certain other living species and automatically emit a protective fog. It is not the merits of the plan, but the number of witnesses who can be mustered to appear before the Congress, and the consequent size of the attendant smoke screen of irrelevancies, which will weigh most heavily. This is encouraging special-interest representation in its worst aspects.

These regulated interests are wholly lacking in detachment and perspective; they are the last groups whose will and judgment should

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[2] C. A. Miller, vice president and general counsel, the American Short Line Railroads Association; J. C. Gibson, Association of American Railroads; Frank Robertson, chairman, legislative committee, Federal Communications Bar Association; R. Granville Curry, past president and member of the executive committee, Association of Interstate Commerce Commission Practitioners; J. Ninian Beall, chairman, legislative committee, Association of Interstate Commerce Commission Practitioners; Edgar S. Idol, general counsel, American Trucking Association, Inc.; Giles Morrow, executive secretary and general counsel, Freight Forwarders Institute; Donald D. Conn, executive vice president, Transportation Association of America; Herschel A. Hollopeter, transportation director, Indiana State Chamber of Commerce; Basil Manly, vice president and director, Southern Natural Gas Co.; Don Petty, general counsel National Association of Broadcasters; Arthur L. Winn, LaRoe, Brown and Winn, practitioner before the Interstate Commerce Commission; William H. Ott, Jr., chairman, legislative committee, National Council of Private Motor Truck Owners.

be allowed to prevail against a general Government policy applicable to all similar regulatory Commissions.

We believe that plan No. 7 should be approved on the basis of its merits. Improved administration in all the regulatory Commissions demands not lip service but actual support. Each special-interest group through pressure alone and by avoiding the merits cannot be allowed to exempt particular areas of the Government from desirable improvements simply because of unrealistic fears. To accept the similar propositions of most special-interest groups would be to make any reorganization impossible. To accept the propositions of only a few of the special-interest groups is to cater needlessly to their fantasies at the expense of a general pattern of improvements in the public interest. It will encourage these groups to parade before us endorsing reorganization in general, as long as it does not affect their particular agency.

REORGANIZATION PLAN NO. 7 SHOULD BE APPROVED ON ITS MERITS

When the Interstate Commerce Commission was created by the Act to Regulate Commerce, February 4, 1887 (24 Stat. 379, 383), a bold experiment in Federal administration was begun. The first of the regulatory Commissions was established with five members. Through the years this pioneering step has received greater acceptance, and the commission form of organization has been extended to other areas of Federal regulation.

Along with this growth of the regulatory Commissions there has been an accompanying growth in complexity of the tasks of regulation. Subsequent acts of Congress have added extensively to the jurisdiction and nature of tasks performed by the Interstate Commerce Commission. Important among these were the Hepburn Act of 1906, the Panama Canal Act of 1912, the Transportation Act of 1920, the Motor Carrier Act of 1935, and the Transportation Act of 1940. With this increase in functions of the Interstate Commerce Commission the number of Commissioners has been increased, until today there are 11 Commissioners.

Also in the last 63 years the delicate problems of economic regulation have become ever more intricate and technical. They require greater specialization in analysis of the problems. There is also a greater need to relate these problems to the economic and social pattern of the Nation.

In 1887 it was thought that the Commission could largely handle all its functions among its five members with some aid provided by a small staff of assistants. With the extension of Commission jurisdiction and the increasing technical complexity of the problems of regulation, this staff has been increased through the years. Today there are over 2,000 employees of this Commission skilled in the matters of transportation economics, law, accounting, and the many other skills necessary for the economic regulation of modern interstate commerce. This constitutes the largest staff under any regulatory Commission today.

In the early decades of the Commission's history there were no pressing problems of administration comparable to those of today and consequently little need for special attention to responsibility for administrative matters within the Commission. This is not true

today. Running a staff of 2,000 employees and seeing that the work of each of them is properly related to the work of the others is a major task requiring full use of modern practices of business management.

A first principle of business management is that one individual should have administrative responsibility fixed upon him and he should be held fully accountable for the operations. This is the need in the Interstate Commerce Commission today. Eleven Commissioners cannot possibly supervise adequately the problems of personnel management, budget, accounting, and management analysis to run efficiently a staff of 2,000 employees, and at the same time perform the important substantive functions of transportation regulation vested in them. This is the pressing problem before us.

The purpose of Reorganization Plan No. 7

The President's message transmitting to the Congress on March 13 the plans reorganizing the regulatory Commissions stated: [3]

> These plans are designed to strengthen the internal administration of these bodies by making the Chairman, rather than the Commission or Board as a whole responsible for day-to-day administration. * * *
>
> The proposals contained in these reorganizations are not new. Several of the Commissions have already made considerable progress in placing administrative responsibility in their Chairman. Therefore, the effect of these plans is to extend uniformly to all Commissions a pattern of organization demonstrated by experience to be successful.
>
> The fact that under these reorganization plans the Commissions retain all substantive responsibilities deserves special emphasis. The plans only eliminate multiheaded supervision of internal administrative activities since these are subject to the general policies and regulatory decisions, findings, and determinations of the Commissions.

In testifying before our committee, the Director of the Budget, Mr. Frederick J. Lawton, stated:

> The sole objective of these plans is improved organization and administration of these agencies, and in no way do they modify or alter the substantive laws administered by these bodies. These plans were developed as a part of a general pattern of reorganization for all regulatory Commissions. This general pattern was recommended by the Commission on Organization of the Executive Branch of the Government.

The purpose of plan No. 7, therefore, is to improve the administration of the Interstate Commerce Commission by making the Chairman responsible for day-to-day administration subject to the general policy guidance of the Commission. The plan has no purpose of altering the performance of substantive functions vested by law in the Commission.

Hoover Commission Recommendations

Reorganization Plan No. 7 is in strict conformity with the recommendations of the Hoover Commission and its Task Force on Regulatory Agencies. In its report on regulatory commissions, the Hoover Commission stated: [4]

> Administration by a plural executive is universally regarded as inefficient. This has proved to be true in connection with these commissions. Indeed, those cases where administration has been distinctly superior are cases where administrative as distinguished from the regulatory duties have been vested in the Chairman. There are many of these administrative duties. Their efficient handling will frequently make the difference between a Commission's keeping abreast of its work or falling woefully behind.

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[3] H. Doc. No. 504, 81st Cong., 2d sess.
[4] H. Doc. No. 116, 81st Cong., 1st sess., p. 5.

Recommendation No. 1:

We recommend that all administrative responsibility be vested in the Chairman of the Commission.[5]

In commenting on its own proposal, the Commission said:[6]

This recommendation does not derogate from the statutory responsibilities placed upon the other members of the Commission. They remain exactly as they are, and because of the better functioning of the organization the Commission members will be enabled to discharge these responsibilities much more effectively.

The Hoover Commission further recommended:[7]

Recommendation No. 6:

We recommend therefore that the statutes be amended so as to permit the Commissions to delegate routine, preliminary, and less important work to members of the staffs under their supervision.

The Hoover Commission's recommendations were based on the study by its task force on regulatory agencies which reported:[8]

In order to prevent the absorption of all the Commissioners in administrative details at the expense of the substantive work, the Chairman should be specifically designated as the person responsible for administration within the Commission * * * Duties * * * of the Chairman * * * should include—

1. Supervision of the various bureaus and divisions from the administrative point of view, such as their workload, backlog, progress, and programs.
2. Direction of the administrative divisions of the Commission—those dealing with the budget, personnel, management analysis, and office and miscellaneous services.
3. Analysis of the administration and procedures of the Commission for proposing changes to improve administrative efficiency and to provide more systematic supervision.

* * * * * * *

On routine supervision and appointments, the Chairman should merely report periodically to the Commission. But the Chairman's primary responsibility for administration should not supplant the ultimate authority of the entire Commission on matters which are of major significance to the agency.

Commenting on delegations to the staff, the task force wrote:[9]

* * * recognition of the Chairman as administrative head of the Commission will facilitate the delegation of administrative duties to the staff under his direction.

From these excerpts of the Hoover Commission Report on Regulatory Commissions and the Task Force Report on Regulatory Agencies, it is clear that the major purpose of Reorganization Plan No. 7, vesting responsibility for administration in the Chairman, is in full conformity with these reports.

The safeguards of section 1 (b)

Section 1 (b) of Reorganization Plan No. 7 deserves special emphasis. In this section are enumerated one general and three specific provisions delimiting the administrative functions of the Chairman and thereby assuring to the full Commission the powers necessary and consistent with its responsibility over substantive functions.

These safeguards are as follows:

Section 1 (b): (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission

[5] Ibid, p. 5.
[6] Ibid, p. 6.
[7] Ibid p. 10.
[8] Task force report (appendix N), pp. 46–47.
[9] Ibid, p. 49.

and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.[10]

These provisions clearly indicate that in his performance of all administrative functions the Chairman is to be governed by and responsible to the full Commission. In the appointment of the heads of administrative units the Chairman must seek the approval of the full Commission thus assuring administration in the interest of the whole Commission. Moreover, the individual Commissioners appropriately retain full control over the personnel on their immediate office staff. Finally, in matters of Commission budgetary control the full Commission determines the budget estimates presented to the Congress each year and, following appropriation by the Congress, it is responsible for the allocation of appropriated funds among major programs and purposes.

These safeguards seems to us sufficient to guarantee that the performance of administrative functions by the Chairman will be in the interest of the whole Commission, subject to its control, and will at all times implement Commission policies.

Bureau of Locomotive Inspection

Section 1 (c) of Reorganization Plan No. 7 provides that the Director and two Assistant Directors of Locomotive Inspection shall perform their functions subject to the direction and control of the Chairman.

The initial law governing locomotive inspection was enacted in 1911 and has been added to and amended from time to time through the years. These laws are designed to promote the safety of employees and travelers upon railroads by requiring common carriers operating in interstate commerce to equip their locomotives with safe boilers and other equipment. The Director and two Assistant Directors of Locomotive Inspection are by law appointed by the President by and with the advice and consent of the Senate.

The Interstate Commerce Commission is required by law:

(*a*) To furnish the Bureau with office space and other administrative facilities;

(*b*) To appoint an adequate staff for the Bureau to carry out its functions of inspecting railroad equipment; and

(*c*) To make regulations pertaining to safety under which the Bureau staff operates and in conformance with which they inspect locomotives.

The law requires that the staff of the Bureau enforce the safety regulations of the Interstate Commerce Commission. Also, the Director is required to report annually to the Commission. Moreover, the budget and report of the Bureau is annually transmitted to the Congress by the Commission.

It should be emphasized that Reorganization Plan No. 7 does not provide for the transfer of the Bureau's functions to the Chairman.

[10] H. Doc. No. 511, 81st Cong., 2d sess.

The Bureau's functions remain with the locomotive inspectors. The only change made by the plan in respect to the Bureau is that the performance of locomotive inspections is placed under the direction and control of the Chairman, placing the Director of Locomotive Inspection on a par with the Chief of the Bureau of Motor Carriers in the Interstate Commerce Commission. The Chairman in exercising direction over the Bureau would be subject to the Commission's policies, regulatory decisions, findings, and determinations to the same extent as in the case of the other bureaus of the Commission. The Chairman could not change the regulations under which the locomotive inspectors operate, because these regulations are established by the Commission and the function of making regulations is unaffected by the plan. Moreover, Reorganization Plan No. 7 in nowise disturbs the statute setting up the criteria for locomotive inspection.

Designation of the Chairman

Section 3 of Reorganization Plan No. 7 transfers from the Commission to the President the function of designating the Chairman.

This provision is neither novel nor unique, for under existing law the President designates the Chairman of five of nine regulatory bodies studied by the Hoover Commission. Reorganization Plans Nos. 8 and 9 have already been endorsed by a majority of our committee. Plans Nos. 8, 9, and 10 all provide for Presidential designation of Commission Chairmen. Unless Senate Resolution 253 is rejected, the Interstate Commerce Commission will indeed by unique—the only Commission with a Chairman not designated by the President.

The Hoover Commission Task Force on Regulatory Agencies, which studied nine regulatory Commissions, specifically recommended:[11]

* * * the Chairman of each Commission should be designated from among the members by the President * * *.

This recommendation was made because two benefits would result: (*a*) an improved channel of communication, and (*b*) an improved internal administration.

(*a*) Communication between the Commission and the President would be improved without impairing the proper independence of the Commission. The task force reported:[12]

* * * The experience of the Commissions where the President has either directly or informally named the Chairman indicates that this power does not interfere with such independence. The investigations of our staff have not revealed that the President has sought to interfere in, or influence the determination of, particular controversies or matters handled by such Commissions. On the basis of this evidence, we discount the objection that such designation would impair their essential independence, although we would give it great weight if it appeared well taken.

The task force further pointed out the long-standing need for improvement in liaison between the Commissions and the President and stated:[13]

* * * This will enable the President to obtain a sympathetic hearing for broader considerations of national policy which he feels the Commission should take into account. It will still lie with the Commission as a whole to decide what weight should be given to such views, but in our opinion there should be available means for transmitting them in the most direct manner.

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[11] Task force report, p. 31.
[12] Ibid., p. 31.
[13] Ibid., p. 32.

(*b*) Internal administration of the Commission will be improved by the designation of the Chairman by the President, because the increased prestige that would result from Presidential designation would make the Chairman better able to perform his administrative responsibilities. In those commissions where these circumstances already exist the task force found more outstanding administration. The task force stated: [14]

> Our staff reports indicate that the absence of such supervision today accounts in large measure for the delays and backlogs now too common. They also clearly show that the members will seldom voluntarily delegate to the Chairman or any other official, for a substantial period, the necessary authority to perform these essential duties. On the contrary, where the members select the Chairman, he is ordinarily little more than a presiding officer without any real administrative role. This is the case in the Interstate Commerce Commission and the Federal Trade Commission, where the office rotates annually. * * *

The Hoover Commission itself took no stand on this issue; however, it did state: [15]

> The Commission's Task Force on Regulatory Agencies makes numerous recommendations which are not included in this report but which the Commission hopes will be given thorough study and consideration by both the Congress and the Commissions concerned.

Also, in a list stating "What is wrong with independent regulatory commissions" the Hoover Commission reported: [16]

> (i) Coordination between these commissions and the general program of the executive departments is often loose and casual and sometimes nonexistent.

It is our position, after evaluating the studies of the task force, that designation of the Chairman of the Interstate Commerce Commission by the President will improve its relations with the executive branch and is a step facilitating better internal management of the Commission.

OPPONENTS OF REORGANIZATION PLAN NO. 7 DO NOT ARGUE ITS MERITS

1. It is alleged that Reorganization Plan No. 7 "transfers to the executive branch" an "arm of Congress," or that it at least involves Executive interference with an arm of Congress.

This is obscurantism employed by the regulated interests to divert attention from the real issues presented by plan No. 7. Posing this fictitious issue makes it possible for these interests to assert that the Congress is being deprived of something by plan No. 7.

The plan involves no question of the "location" of the Interstate Commerce Commission in one branch of the Government. Our real concern should be whether the Commission can be improved in its internal administrative operations in such a way as to promote the more efficient and expeditious carrying out of its main function which is regulation. We believe that the Commission can be so improved. The Task Force on Regulatory Agencies, after detailing weaknesses in the Commission, said: [17]

> Basically, all these weaknesses point to the fact that many Commissions have failed to appreciate the need for orderly administration or to adopt methods adequate to achieve it.

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[14] Ibid, p. 33.
[15] H. Doc. No. 116, 81st Cong., 1st sess., p. 5.
[16] Ibid, pp. 4–5.
[17] Task force report, p. 46.

The difficulty of devising and maintaining effective methods within the framework of the Commission form should not be minimized. The evidence is overwhelming that the Commission as a whole cannot properly supervise the bureaus or the work of the agency. Delegation to individuals either on the Commission or the staff is essential. But the forces tending to prevent such delegation, as already discussed, must be fully recognized.

Yet a number of the Commissions have been well administered at various periods. In arriving at our recommendations we have taken full account of these examples of successful administration as well as of the weaknesses already described.

For that reason we are confident that our proposals are entirely consistent with the full realization of the advantages of such Commissions, and indeed should substantially assist in obtaining those advantages more completely in practice.

2. It is alleged that plan No. 7, unifying administrative responsibility in a Chairman, merges the functions of prosecution and adjudication.

The argument goes as follows: Plans Nos. 7, 8, 9 and 11 do not specifically exempt hearing examiners from the Chairman's control although they are so exempted in plans Nos. 1 to 6 reorganizing the executive departments. This lack of exemptions, it is asserted, may be utilized through the principle of exclusio unius, to vitiate section 11 of the Administrative Procedure Act (60 Stat. 237) despite section 12 of that act which states:

> No subsequent legislation shall be held to supersede or modify the provisions of this act except to the extent that such legislation shall do so expressly.

The opponents of plan No. 7 have gone to great lengths to develop a line of far-fetched, legalistic reasoning against the plan. The statement of the American Bar Association presented by Mr. C. A. Miller predicts:

> While we do not believe it would be sound or in accordance with the law, yet it is recognized that the Chairmen of these reorganized agencies may take the position that section 11 of the Administrative Procedure Act does not apply to them, so far as the selection of hearing examiners is concerned and so far as the assignment of work to them is concerned.
>
> But the possibilities of danger do not stop there. In the case of some of the Commissions, particularly the Interstate Commerce Commission, the examiners are subject to civil service requirements only because of an agreement between the Interstate Commerce Commission and the Civil Service Commission, an agreement which could readily be abrogated, thus making all of the examiners subject to politics rather than to civil service laws. Therefore, because of the possible impairment of the integrity of the Administrative Procedure Act, the American Bar Association opposes Reorganization Plans Nos. 7 to 13, inclusive.

It is of course always possible to oppose a law or a change in the law by pointing out that an administrator may act illegally. If this were a meritorious argument we would still be in the jungle. If this objection illuminates a real danger it does not derive from the passage of plan No. 7 but exists right now since present Chairmen of the Commissions or the Commissions in toto could presently decide to violate the provisions of the Administrative Procedure Act.

There are additional reasons which dispose of these fears. We have a legal tradition against repeal by implication. We have a Supreme Court that has strongly and lucidly expressed itself again and again against combination in the same public officer of the functions of prosecutor and judge—notably in the Morgan cases. We have a clear

congressional mandate in the Administrative Procedure Act that such functions shall not be confused.

Finally, we have the specific language of section 12 of that act as set forth above, which plainly indicates that the Congress in passing the act was passing no ordinary statute, but procedural framework not lightly to be disregarded by agencies or courts.

The reason for the inclusion of language excluding the hearing examiner function in plans Nos. 1 to 6 and the absence of such language in plans Nos. 7, 8, 9, and 11 is evident if the language of the two sets of plans is compared.

Plans Nos. 1 to 6 contain similar language which provides for the transfer of "all functions of all other officers (of the given departments) and all functions of all agencies and employees of such department" to the department head, except as provided in section 1 (b) of each plan. Section 1 (b) of plans Nos. 1 to 6 exempting hearing examiners reads as follows:

> This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of * * *.

It is obvious that this exemption is essential in plans Nos. 1 to 6 due to the transfer of all functions to the department head in line with the recommendations of the Hoover Commission in respect to the executive departments. However, in the case of the plans Nos. 7, 8, 9, and 11 dealing with the regulatory commissions, "all functions of other officers * * * agencies and employees * * * " are not transferred. Instead the language of plan No. 7, which is similar to that of the others, states:

> SECTION 1. Transfer of functions to the Chairman.—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Interstate Commerce Commission hereinafter referred to as the Chairman, *the executive and administrative functions of the Commission*, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

The functions of hearing examiners are not referred to because plans Nos. 7, 8, 9, and 11 transfer to the Chairmen only the executive and administrative functions of the Commissions. Quasi-judicial and quasi-legislative functions of the Commissions are not transferred by the plans. Since the functions of the hearing examiners are not affected by the plans, there is no need to exempt them. In addition, there is no language in any of the plans superseding or modifying the Administrative Procedure Act in any respect.

In answer to a query concerning this matter the Director of the Budget replied as follows in a letter dated May 9, 1950:

> I have given attention to your communication regarding certain of the adverse testimony which has been presented in the hearings on Reorganization Plans Nos. 7, 8, 9, and 11 of 1950. I understand that one of the principal allegations made against the plans is that they would impair the operation of the provisions of the Administrative Procedure Act.
>
> As I have previously testified, there was no intention in the development of these proposals to diminish in any way the safeguards provided by the Administrative Procedure Act. The whole question of the effect of these plans on the

Administrative Procedure Act was explored at some length, and I would like to make the following points for your information.

1. Nothing in the reorganization plans nullifies or dilutes the provisions of the Administrative Procedure Act. In expressing this opinion, I am also stating the views of the Department of Justice. To contend that the plans do change the Administrative Procedure Act, it would be necessary to argue that section 12 of the act does not apply to these reorganization plans. Section 12 states: "No substantive legislation shall be held to supersede or modify the provisions of this act, except to the extent that such legislation shall do so expressly." You will note that there is no expressed reference in plans 7–13 to the Administrative Procedure Act. Both as a matter of legal interpretation and as a matter of administrative policy, it is my considered judgment that the provisions of the Administrative Procedure Act are as much in force and will be as much in force with respect to the regulatory agencies concerned, following the taking effect of Reorganization Plans 7–13, as they are today.

3. It is contended that granting the President the power to designate the Chairman of the Interstate Commerce Commission and the Chairmen of the other Commissions will result in political domination of the Commissions.

In advancing this contention the opponents of plan No. 7 and of plans Nos. 8, 9 and 11 have again departed from reality.

The fact is that political domination on the part of the executive has not been a problem in those Commissions whose Chairmen are now designated by the President. The task force on regulatory agencies, a nonpartisan body fully aware of the bipartisan nature of the Commissions dealt with in these plans, pointed out: [18]

> The experience of the Commissions where the President has either directly or informally named the Chairman indicates that this power does not interfere with such independence. The investigations of our staff have not revealed that the President has sought to interfere in, or influence the determination of, particular controversies or matters handled by such Commissions. On the basis of this evidence, we discount the objection that such designation would impair their essential independence, *although we would give it great weight if it appeared well taken.*

The assertion that plan No. 7 or the other three plans will increase the possibility of partisan influence on the Commission is further exploded by analysis of their present makeup. The Interstate Commerce Commission is now bipartisan in that no more than 6 of the 11 appointees may be from one party. The rule is one of balanced partisanship. How does the Presidential power to designate the Chairman increase partisanship? It cannot do so. The number of Commissioners affiliated with one party is limited by statute.

There is a basic reason why the regulated interests do not want a Presidentially designated Chairman. As the task force on regulatory agencies pointed out, a Chairman designated by the President would be able to present to the Commission the Presidential view on national transportation policy as distinguished from Commission treatment of individual rate cases. The Presidential view will ordinarily be a national view and might be in certain instances contrary to the special concerns of the regulated interests. Any attempt to clarify the presently muddled state of our national transportation policy might lead to possible infringement of some special interest. Therefore, the safest way for the regulated groups to speak is with one condemnatory voice to preserve the status quo.

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[18] Ibid., p. 31.

CONCLUSION

We support Reorganization Plan No. 7 and recommend rejection of Senate Resolution 253 for the following reasons:

1. Plan No. 7, by making 1 Commissioner, the Chairman, rather than 11 Commissioners, responsible for day-to-day administrative matters of the Commission, will promote more efficient administration in the Interstate Commerce Commission.

2. Plan No. 7, by fixing administrative and executive responsibilities and authorities upon the Chairman, will expedite the consideration of cases before the Commission and holds promise of reducing the present backlog of the Commission.

3. Plan No. 7, by freeing the other Commissioners of responsibilities in connection with minor matters of administration, will provide them with more time for the consideration of cases and the study of policies.

4. Plan No. 7, by providing the safeguards of section 1 (b), will guarantee that the Commission as a whole retains the necessary controls over the administration of the Chairman to assure the continued performance of all substantive functions by the Commission.

5. Plan No. 7, by effecting no changes in the substantive policies of the Commission and by amending none of the provisions of the Administrative Procedure Act of 1946, will retain fully the present separation of judicial and prosecutorial functions and in nowise impair the due process afforded by law in the handling of cases.

6. Plan No. 7, by providing for the designation of the Chairman by the President, as in the case of the other commissions, will assure an improved channel of communication between the Commission and the President and will facilitate and improve internal administration.

7. Plan No. 7, by putting the Bureau of Locomotive Inspection under the direction and control of the Chairman, will provide that the functions of this Bureau, which are executive in nature, are performed under the executive officer of the Commission, the Chairman, subject to the safety regulations established by the Commission.

It is vital to maintain a proper perspective in dealing with these plans. The opposition to them has almost uniformly concerned itself with the things that the plans do not do. They have magnified them to the status of plans for dictatorship within the commissions. They have evoked lurid ghosts of political influence, domination, and toadying by individual Commissioners with which to frighten the Congress. Significantly, they have no word of praise for any of the recommendations of the Hoover Commission, a Commission which was nonpartisan, which was headed by a former President of the United States, and which was composed of disinterested and highly able citizens and public servants. Must we enshrine our defects in grandeur equal to our virtues? Must nothing be changed because the possibility of improvement brings with it the possibility that some regulated group might be affected?

This is the nub and source of the opposition arguments. These regulatory commissions were created to regulate specific segments of industry. The original establishment of these commissions was viewed with similar alarm. Delay, chaos, and inefficiency all serve to promote an atmosphere in which the public interest is less clear and less forcefully served. In this sort of administrative jungle the special interests sprout as if stimulated by the giantism of tropical plant life. By their sides sprout the advocates of inefficiency, the pleaders for special favor, and the cementers and binders of the status quo.

There is a distorted undertone running through nearly all of the testimony before this committee on these plans for the regulatory agencies. It rests on the assumption that because some men are occasionally fallible no men can ever be trusted, no matter how hedged about with the safeguards of law. We have been treated to a parade of the vices of the corrupt public servant, the Presidential toady, and the vacillating seeker of maximum Executive favor. It has even been asserted that there is a possibility of lawbreaking among the membership of the Interstate Commerce Commission. One witness stated:

> With respect to the Interstate Commerce Commission, there is a special danger. The Administrative Procedure Act was opposed by the Commission, and the act is very unpopular with the Commission, as is evidenced in its last annual report to the Congress, at pages 57–58. Therefore, a politically minded and politically appointed Chairman of the Commission may very well take the view that section 11 of the Administrative Procedure Act is not applicable to him. Further, it is to be kept in mind that the examiners on the Commission's staff, other than the hearing examiners, are subject to civil service requirements only because of an agreement between the Interstate Commerce Commission and the Civil Service Commission. A politically minded and politically appointed Chairman of the Commission could very well abrogate that agreement, so that all of the examiners would be subject to politics rather than to civil-service laws.

One technique of the opposition is all too obvious. The public servants of today are lauded, as they rightly should be. It is the men of the future who will be the real betrayers. It is always this figure of the future public servant which is conjured up for us. These wraiths are stock props in hearing after hearing before the Congress.

There seems to us a peculiar inconsistence in the argument which lauds all present Commissioners and impugns the integrity of those in the immediate future.

If our Government service is to develop wise, just, and efficient administrative habits it will only be done on a basis of congressional trust and confidence exercised with the necessary admixture of congressional control. This we submit is the true and sound basis of a better functioning democratic Government.

HUBERT H. HUMPHREY.
EDWARD L. LEAHY.
WILLIAM BENTON.

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Calendar No. 1575

81ST CONGRESS
2D SESSION

S. RES. 253

[Report No. 1567]

IN THE SENATE OF THE UNITED STATES

APRIL 12 (legislative day, MARCH 29), 1950

Mr. JOHNSON of Colorado submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, without amendment

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 7 transmitted to Congress by the President on March 13, 1950.

Calendar No. 1575

81ST CONGRESS
2D SESSION

S. RES. 253

[Report No. 1567]

RESOLUTION

Disapproving Reorganization Plan Numbered 7 of 1950.

By Mr. JOHNSON of Colorado

APRIL 12 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950
Reported without amendment

Michigan reapportioned its house of representatives in 1943 (Laws 1943, No. 228).

New Hampshire reapportioned its house of representatives in 1943 (Laws 1943, ch. 36).

New York had a general reapportionment of senate and assembly districts in 1943 (Laws 1943, chs. 359; amended Laws 1944, chs. 359, 725, 733).

Missouri reapportioned its representatives in 1945 (Laws 1945, p. 1125).

Oregon had a reapportionment of senators in 1945 (Laws 1945, ch. 343).

Wisconsin redescribed districts in one county (Kenosha) in 1945 (Laws 1945, ch. 337).

California in 1948 defeated a constitutional amendment requiring reapportionment of the senate (initiated measure, November 2, 1948).

Massachusetts in 1947 reapportioned its lower house (Laws 1947, ch. 182), and in 1948 reapportioned its senate districts (Laws 1948, ch. 250).

Nevada in 1947 reapportioned both its house and senate (Laws 1947, ch. 189).

South Dakota in 1947 had a general reapportionment of both senators and representatives. In 1948 a constitutional amendment was adopted making a reapportionment mandatory every 10 years beginning in 1951 (Laws 1947, ch. 250).

Virginia in 1948 passed a general reapportionment law redescribing both districts for both the house of delegates and senate (Laws 1948, ch. 40).

The State constitutions require reapportionment at following frequency:

Every 5 years (Kansas, X 2).

Every 10 years (Florida, VII 2; Illinois, IV 6; Kentucky, 33; Michigan, V 4; Ohio XI 1; South Dakota, art. III 5, amendment; Tennessee, II 4; Virginia, IV 43).

Decennially or when new county established; apportionment not to take effect until general election next succeeding (South Carolina, III 3, 5).

To be made after every United States census (Alabama, IX 199, 200; Georgia, III, sec. II 3; New Jersey, IV, sec. III; Pennsylvania, II 18; Texas, III 28; West Virginia, VI 4).

To be made at first regular session after each United States census (California, IV 6; Louisiana, 18; Mississippi, XIII 256; North Carolina, II 4, 5; Oklahoma, V 9 b).

May be made at session next after completion of United States census (Connecticut, amendment XXXI 2).

To be made at first session after each decennial enumeration of inhabitants made by State (Massachusetts, amendment 21, 22; New York, III 4, 5).

To be made after each enumeration of inhabitants made by State within every period of at most 10 years (Maine, IV pt. I 2).

To be made at session next following enumeration of inhabitants by United States or by State (Arkansas, VIII 4; Maryland, III 5; Oregon, IV 6).

To be made after each United States census or after census taken by State for purpose of such apportionment (senate) (Vermont, II 18).

To be made at first session after United States census, or after State census if United States census not taken every tenth year or delayed (Missouri, IV 7).

May be made by legislature after any new census taken by United States or by State (Rhode Island, amendment XIII 1).

To be made at first regular session held after taking of decennial census by State and after United States census (Colorado, V 45; Iowa, III 34, 36; Minnesota, IV 23; Montana, VI 2; Nebraska, III 2; Utah, IX 2; Washington, II 3; Wyoming, III apportionment 2).

To be made after each decennial enumeration to be made by legislature and also after each Federal census; and at any regular session, legislature may redistrict State and apportion senators and representatives (North Dakota, II 35).

REORGANIZATION PLAN NO. 7, 1950

Mr. JOHNSON of Colorado. Mr. President, I move that the Senate proceed to consider the resolution (S. Res. 253) disapproving Reorganization Plan No. 7 of 1950. It is Calendar No. 1575.

The PRESIDING OFFICER (Mr. LEHMAN in the chair). The clerk will state the resolution.

The CHIEF CLERK. A resolution (S. Res. 253), that the Senate does not favor the Reorganization Plan No. 7 transmitted to Congress by the President on March 13, 1950.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Colorado.

Mr. CAIN. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield.

Mr. CAIN. May I inquire of the Senator from Colorado——

The PRESIDING OFFICER. The Chair wishes to point out that the motion is not debatable. Is the question of the Senator from Washington only for information?

Mr. CAIN. Yes; Mr. President.

The PRESIDING OFFICER. The Senator may proceed.

Mr. JOHNSON of Colorado. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Colorado, that the Senate proceed to the consideration of Senate Resolution 253.

The motion was agreed to; and the Senate proceeded to consider the resolution (S. Res. 253), as follows:

Resolved, That the Senate does not favor the Reorganization Plan No. 7 transmitted to Congress by the President on March 13, 1950.

Mr. JOHNSON of Colorado. Mr. President, I ask that the time on this highly privileged matter be divided equally between the chairman of the Committee on Expenditures in the Executive Departments [Mr. MCCLELLAN] and the Senator from Minnesota [Mr. HUMPHREY], who signed minority views opposing the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAIN. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield to the Senator from Washington.

Mr. CAIN. I should like to say to the Senator that the suggestion of the absence of a quorum is in order because of the interest of a number of absent Senators in this particular measure. With the permission of the Senator, I should like to suggest the absence of a quorum.

Mr. JOHNSON of Colorado. I am anxious to proceed with the matter. Of course, if the Senator from Washington wants to suggest the absence of a quorum, I shall not object; but I was in hopes that we could proceed. I have noticed that quorum calls sometimes thin out the membership on the floor rather than adding to the number of Senators present.

Mr. CAIN. The junior Senator from Washington is merely acting temporarily in the absence of the minority leader, and, at his request and that of other Senators, I am constrained to suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Hoey	Maybank
Benton	Holland	Mundt
Brewster	Humphrey	Myers
Bricker	Hunt	Neely
Bridges	Ives	O'Conor
Butler	Jenner	O'Mahoney
Byrd	Johnson, Colo.	Robertson
Cain	Johnson, Tex.	Russell
Capehart	Johnston, S. C.	Saltonstall
Chapman	Kefauver	Schoeppel
Connally	Kem	Smith, Maine
Cordon	Kerr	Smith, N. J.
Darby	Kilgore	Sparkman
Donnell	Knowland	Stennis
Douglas	Langer	Taft
Dworshak	Leahy	Taylor
Eastland	Lehman	Thomas, Okla.
Ecton	Lodge	Thomas, Utah
Ellender	Long	Thye
Ferguson	Lucas	Tobey
Fulbright	McCarran	Tydings
George	McCarthy	Watkins
Gillette	McClellan	Wherry
Green	McFarland	Wiley
Gurney	McKellar	Williams
Hayden	McMahon	Withers
Hendrickson	Malone	Young
Hill	Martin	

The PRESIDING OFFICER (Mr. GILLETTE in the chair). A quorum is present. The Senator from Colorado may proceed.

Mr. JOHNSON of Colorado. Mr. President, before I proceed, I should like to ask unanimous consent that debate be limited to 3 hours.

The PRESIDING OFFICER. Does the Senator mean a total of 3 hours?

Mr. JOHNSON of Colorado. Yes. I ask that debate be limited to a total of 3 hours, to be divided equally between the proponents and the opponents.

The PRESIDING OFFICER. The Senator from Colorado asks unanimous consent that debate on this proposal be limited to 3 hours, the time to be controlled on behalf of the proponents by the Senator from Arkansas [Mr. MCCLELLAN], and on behalf of the opponents by the Senator from Minnesota [Mr. HUMPHREY]. Each side will be limited to 1½ hours of debate.

Is there objection? The Chair hears none, and it is so ordered.

Mr. JOHNSON of Colorado. Mr. President, plan No. 7 is opposed by a majority of the Committee on Interstate and Foreign Commerce, the committee which has jurisdiction over the Interstate Commerce Commission under the Legislative Reorganization Act, of which I have the honor to be chairman. I urge the Senate, therefore, to adopt Senate Resolution 253 disapproving Reorganization Plan No. 7. This plan would vest all administrative and executive authority of the Interstate Commerce Commission in the Chairman of the Commission and give the President the power to appoint that Chairman. It would repeal many vital provisions of the present law respecting that Commission without following the legislative processes provided in the Constitution for enacting laws.

Mr. President, today I shall emphasize my opposition to this plan for at least two compelling reasons. First, it has the effect of making a one-man com-

mission out of the Interstate Commerce Commission. This would be a complete destruction of the democratic safeguards which Congress enacted into law when it created the Interstate Commerce Commission.

Secondly, by giving the President the right to appoint the Chairman of this all-powerful Commission, we are in effect transferring to the executive branch of the Government control over an agency which was established as an arm of the Congress.

The reorganization plans proposed by the Hoover Commission had as their over-all purpose to promote greater efficiency and more economy in government. It is not claimed, however, that this plan will effect any economy whatever, although with full power over the agency vested in the chairman, they might well have saved the salaries of the other members of the commission by eliminating them entirely. I am in favor of greater efficiency in government as much as any Senator on this floor, but not where it is accomplished at the expense of our liberty and of our democratic institutions. Theoretically, while a degree of efficiency may be obtained by giving administrative control to one man if he be an especially able man, there can be no increased efficiency by giving the President the power to appoint that one man. I challenge the supporters of this outrageous plan to show by what magic a Presidential appointment will save money. No, Mr. President, the object cannot be to save money or promote efficiency by giving this tremendous power over an arm of Congress to the President.

I am perfectly willing to admit that in a sense a 1-man commission may be more efficient than a 11-man commission. But only in the sense that a three-Member Congress would be more efficient than a Congress of 531 Members who are of varying political faiths, springing from all sections of the country, and representing the economic views held by the various groups of our people. A three-man Congress could have disposed of the entire legislative program with which we have been struggling and could have adjourned within a month.

Mr. President, lack of efficiency has never been the criticism made of totalitarian governments. But in this Republic we should not value our democratic institutions so lightly that we will sacrifice the safeguards of democracy merely for greater efficiency. And I repeat, there is no increased efficiency at all and there can be none by giving the President the power to appoint this all-powerful chairman. Under present law the chairman is appointed by the commission itself and that is the way it should remain, and that is the way it will remain if this Senate believes in democracy.

In the establishment of administrative agencies the Congress provided for bipartisan representation. In the case of the ICC we provided for 11 members, not more than six of whom may be of the same political party. We have also provided for staggering the 7-year terms of these commissioners so that a change in the office of the President cannot result in a new commission and new policies dictated solely by politics. All of these precautions in effect will go out the window under plan No. 7.

Those safeguards were adopted originally and wisely to insure the independence of this arm of the Congress; safeguards which it is now proposed be swept away. Before specifically pointing out the effects of this plan, I should like to call attention to an exact analogy which will be readily apparent to every Senator. Suppose a proposal were made to give the chairman of the congressional committees full power over the entire staffs of such committees, and the President the power to select that chairman. Certainly we would not sanction any such proposal. But that is precisely what plan No. 7 does to one of the arms of Congress. In the Legislative Reorganization Act, the Congress has gone so far as to expressly provide for minority staff appointments on congressional committees. If we are to maintain the two-party system such provisions must be observed.

Let us not strip the ICC—an arm of the Congress—of the democratic safeguards which we know are so necessary to our liberty.

The reorganization plan before us would take away from the 11 members of the Commission, and vest in 1 man, 6 important functions, 5 of which it has had from its inception and which have contributed materially to its successful operation. These six are:

First. The appointment and supervision of personnel—except for the Commissioner's personal staff.

Second. The assignment and distribution of work among the administrative units of the agency.

Third. The use and expenditure of funds.

Fourth. The control and supervision of hearing examiners, thus amending substantive law and striking a telling blow at the separation of prosecutory and judicial functions.

Fifth. The direction and control of the Director of Locomotive Inspection and his two assistants in the performance of their functions.

Sixth. The democratic right to select its own Chairman. Five of the functions which I have just listed would be vested in the Chairman and the Chairman would be the appointee of the President. As Mr. C. A. Miller, vice president and general counsel of the American Short-line Railroad Association, said in testifying against this reorganization plan:

> If Reorganization Plan No. 7 becomes effective, the Chairman of the Commission will be designated by the President from the membership of the Commission, We regard this as being the wrong thing to do, and for reasons which I think will be apparent. First of all, the Chairman will be political and politically minded. He will be chosen for his politics and political backing rather than for his ability. The Chairman would have the ear of the President, so that the other members of the Commission would be under the necessity of agreeing with him if they expected to be reappointed. It would take a man of great courage to disagree with the Chairman of the Commission if he wanted to be reappointed.

This reorganization plan is also opposed, and the disapproval resolution is supported, by the railroad brotherhoods, the Association of American Railroads, the Association of Interstate Commerce Practitioners, the American Trucking Associations, the Freight Forwarders Institute, and the Council of Private Motor Truck Owners.

The spokesman for the railroad brotherhoods called attention to their great concern over the "impartial administration of the various safety laws," which are administered by this Commission, and that for at least 30 years one member of the Commission has had a background of actual railroad experience specializing in matters relating to railway safety. This expert commissioner has always had supervision over the safety activities of the Commission.

The railroad brotherhoods, alarmed as I have not seen them in many a day, are opposing vigorously transferring these activities to the supervision of a chairman who in all probability would be without actual experience in this field as is now required by law.

Railroad management opposes the plan because of its "impairment of the independence of a regulatory agency such as the Interstate Commerce Commission," as they point out.

The truckers oppose the plan because, as they said: "We believe the value of this streamlining is outweighed by the possibility, even the probability, that the judicial processes may be subjected to political influence."

I assert most emphatically, Mr. President, that the claimed greater efficiency of transferring administrative duties to one commissioner, to free the other commissioners for their judicial and legislative tasks, could have been accomplished equally well without taking away from the Commission as a whole the selection of the Chairman. Even if it were desirable to give much of the administrative control to the Chairman, why must control over the Chairman be given to the Executive? I insist that the supporters of this highly offensive plan—this backward step when we ought to be going forward—say why they are doing this to the American people. The Hoover Commission did not recommend that the President appoint the Chairman of the ICC.

Of course we hear, and shall no doubt continue to hear, that the best man on the Commission should be made Chairman and then be given full power over the administration of the Commission. I would prefer, however, Mr. President, to have 11 good men on this Commission rather than one super man and 10 men reduced by law to be mere "yes men." Under the reorganization arrangement the supporters of plan No. 7 are advocating, instead of getting a superman Chairman we are more apt to get a super politician in that office. I have great fear that we will not be able to get good men to accept appointment to the ICC if they are to be mere figureheads with all of the power vested in a political Chairman appointed by the President.

The functions of the so-called arms of Congress are both regulatory and quasi-judicial. In the case of the ICC the functions are largely regulatory but do also include quasi-judicial activities.

As practical and reasonable men we know that the decisions which a regulatory body makes do not depend so much on the views of the commissioners as upon the statistics, the background material, and the research which is made available to them by their staffs. Such regulatory action must be supported by facts and the power to select what particular facts are made available is the power to control the decision.

There is a well-known saying in Washington: "Commissioners may come and commissioners may go, but the staff goes on forever."

The power to control appointments to the staff, and to dominate the performance of the staff, is the power to control and dominate the Commission. How can the Congress be blind to that situation?

In the Administrative Procedure Act the Congress sought to preserve the right to a fair trial before an administrative agency by protecting the independence of the examiner. Now we are asked to remove that safeguard of a fair and impartial trial, in the name of efficiency. Mr. President, I ask, at what price is such efficiency sought to be obtained? I say that price is too high. I will not pay it.

The prosecuting staff at the Commission has the obligation of prosecuting the complaints presented by the investigating division. But it is the privilege of these investigators to decide what complaints should be disregarded and what complaints should culminate in litigation. There you have it.

Again the trial examiners under present law are intended to be autonomous, impartial men whose job is to decide, initially, the merits and demerits of opposing claims made before the Commission. The trial examiner is required to make an independent and honest appraisal of the facts, and is not to presume a complaint is well founded merely because it has been issued by the Commission. Now we are asked to make him subservient to the Chairman.

Ultimately the commissioners themselves theoretically review the trial examiner's report, but this is, of course, actually done for them by other staff employees. Under plan No. 7, these staff employees will also be subservient to the chairman. The Administrative Procedure Act was intended to separate these functions in order to insure a fair and impartial hearing. These divisions cannot remain independent if they are all under the exclusive supervision of the chairman. To place the chairman in full charge of all divisions is to bring them under a central authority. When all of the staff is under the same control the resulting theoretic efficiency will tend to avoid independent decisions being made at each level. If the President should happen to appoint an especially able chairman, this may be more efficient, but even in that improbable case it does not assure a fair hearing.

Section 1 (c) of plan No. 7 provides that the Director of Locomotive Inspection and the two Assistant Directors of Locomotive Inspection shall perform their functions subject to the direction and control of the chairman.

Now, Mr. President, section 3 of the Locomotive Inspection Act provides for the appointment by the President, subject to confirmation by the Senate, of a Director and two assistants, who—and I quote from the statute—

shall be selected with special reference to their practical knowledge of the construction and repairing of boilers, and to their fitnesses and ability to systematize and carry into effect the provisions hereof relating to the inspection and maintenance of locomotive boilers.

Against this plan, H. E. Lyon, secretary-treasurer of the Railway Labor Executives Association, representing 20 national railway organizations with over a million members, said they opposed the plan because it was unwise to—

place the functions of those experts under the direction and control of a person who would almost surely be lacking in competence in this important field of work.

I certainly agree with that plea for safety by the men who risk their lives in the hazardous job of railroading. If the minority of the Committee on Expenditures in the Executive Departments care nothing about the safety of the railroad workers, I beg them to think of the thousands of passengers who ride the trains. Furthermore I agree with the brotherhoods' warning that—

A chairman with such broad authority and lacking familiarity with technical and practical matters would probably bring about chaotic conditions in the administration and enforcement of these important safety laws.

Surely the Congress does not want to hamstring the Bureau of Locomotive Inspection or weaken the enforcement of the safety standards which have been built up after years of hard work. This feature of plan No. 7, standing alone, is enough to warrant rejection of the entire plan. We cannot take chances where the lives of thousands of people are concerned.

Mr. President, at this point I wish to read a telegram into the RECORD. Similar telegrams have been received by all other Senators. It is dated Chicago, Ill., May 8, 1950, and is as follows:

The forty-fourth grand division Order of Railway Conductors of America, consisting of 650 delegates from all 48 States, now in session at Congress Hotel, Chicago, Ill., respectfully urges you to actively support Senate Resolution 253 by Senator JOHNSON, Colorado, Reorganization Plan No. 7.

Signed by H. W. Fraser, president.

Mr. President, I regret to say that shortly after Mr. Fraser signed the telegram he passed on, but the interest of the railroad workers themselves continues, and I am sure that many Senators have been contacted by the railroad workers and their organizations who have told them of their deep interest in the resolution.

Of all the administrative agencies the Interstate Commerce Commission is the oldest and probably the most highly respected. The experienced members of that Commission are themselves opposed to this transfer of administrative duties to a chairman. In a letter to me dated October 11, 1949, submitted by the Chairman of the ICC on its behalf, and commenting on the pending bill which would have accomplished this transfer, the Commission said:

From the beginning of this Commission in 1887 consideration has been given continuously and intensively to the duties assigned to the Chairman and to his length of term. Initially the term was indefinite, and it continued so until the resignation in 1910 of Chairman Knapp as a member of the Commission to become a judge of the United States Commerce Court. The Commission then unanimously adopted a policy of annual rotation of the chairmanship in order of seniority, as grave weaknesses had developed in the system of a continuing or permanent chairmanship. Annual rotation was the rule until July 1, 1940, when as a necessary part of the reorganization of its internal organization the Commission extended the term to 3 years, and gave the holder of the office greater administrative and executive responsibilities, including the duty of seeing that the work of the Commission is done promptly and efficiently. However, annual rotation was resumed at the end of one 3-year period.

The Commission itself desires to rotate its chairmanship. In that letter the Commission further wrote—

On the whole it has been found best from our standpoint to fill the chairmanship by rotation for a 1-year term. Hence, it would be wholly impractical to transfer to the chairman those duties now in large part performed by the secretary of the Commission under the supervision of the adminstrative division of the Commission on which there are, at present, three commissioners. Moreover, it would be an undue burden on one commissioner to ask him to supervise all the personnel in all the bureaus of the Commission. Such general supervision is now divided among all the commissioners. It is our experience that supervision of one or two bureaus by a single commissioner is much more thorough and satisfactory than could possibly follow from assigning all such supervision of every bureau to a single commissioner designated as chairman. The secretary of the Commission is the chief executive officer, and works as easily with the individual commissioners in respect to the various bureaus as could be hoped for if he had only one commissioner with whom to deal. And we believe there is a more competent appraisal and direction of the work of the bureaus under this division of labor among the commissioners than would follow under an attempt to assign it all to one commissioner. The Commission is in itself an entity. It is composed of 11 individual commissioners but these commissioners act collectively. Cooperation and division of labor among and between the individual commissioners have been achieved without lessening the responsibility of the Commission. We do not see that moving the secretary of the Commission in effect into the office of a single commissioner who would be given the title of chairman would accomplish any beneficial result. It would overburden the commissioner selected as chairman, and it would shut the secretary off from the active and responsive counsel of the other commissioners. * * * We do not believe there is any particular magic in the title of chairman. We assign to our chairman general duties of presiding and coordinating which any commissioner can perform in addition to his other duties. For that reason it is convenient to rotate this responsibility among the commissioners.

Mr. President, as every Member of the Senate knows, there is a tendency in all independent agencies for a small group of senior members of the staff to try to form the policy and run the Commission. When all staff powers are vested in one man, this objective is greatly simplified because there is only one man for the staff to take under its wing, only one man for them to convert to their cause. At the same time the staff not only has nothing to fear because other commissioners may hold different views, but the staff can actually prevent the other commissioners from obtaining research or investigations which the staff does not wish them to have to support their views and their suspicions.

I am opposed to small groups of the staff running the affairs of an agency—men who were neither appointed by the President nor confirmed by the Senate, and who are not responsible to the people in any degree. Make no mistake about it, plan No. 7 is away from democratic institutions and is a long step toward malignant bureaucracy.

We hear a great deal, Mr. President, about the greater efficiency of private corporations where all executive control is concentrated in a president. This is obviously more efficient, but do not lose sight of the fact that corporate law makes the president of a corporation subject to the direction of the board of directors. That board of directors may remove the president at any time and it has full power to direct the policies of the corporation. Moreover, the members of the board of directors, Mr. President, are the representatives of the stockholders.

There is no similar provision in government making the all-powerful chairman of these agencies subject to the direction and control of any representatives of the people. The agency chairman would be primarily responsible to the President of the United States. Indeed, this is the express intention of the Hoover Commission, although it results in neither economy nor greater efficiency.

It is clear that divesting the whole Commission of authority and concentrating power in the chairman is intended to carry out the philosophy and recommendation expressed in the Hoover Commission's first report (H. Doc. 55, 81st Cong. p. 7) to establish by statute "a clear line of control from the President" to department and agency heads "cutting through the barriers which have in many cases made bureaus and agencies partially independent of the Chief Executive."

The plain fact is, Mr. President, that plan No. 7 would make the Interstate Commerce Commission dependent upon and subordinate to the policy determining power of the Executive, including the political direction and emphasis to be given in the administration of the law.

This is directly contrary to the express intention of Congress in creating the ICC. It was intended to be an arm of the Congress, and I vigorously oppose its transfer to the Executive.

Mr. President, I desire to read into the RECORD three paragraphs from a letter received by me and signed by Mr. Lowe P. Siddons, traffic manager-commerce attorney for the Holly Sugar Corp., dated Colorado Springs, Colo., April 27, 1950. I skip the first paragraph and read the following three paragraphs because they are significant and very pertinent. I am sure they deserve the attention of every lawyer in this body. The three paragraphs are as follows:

> The President states that under the several plans Nos. 7, 13, and 21, the heads of departments and the chairmen of the regulatory bodies "will be made clearly responsible for the effectiveness and economy of governmental administration and will be given corresponding authority, so that the public, the Congress, and the President may hold them accountable for results in terms both of accomplishments and of cost."

Listen to the next paragraph, Mr. President and Senators:

> Under the Constitution of the United States, section 8, powers of Congress. The Congress shall have power "to regulate commerce with foreign nations, and among the several States, and with the Indian Tribes."

That provision of the Constitution does not say anything about the President having the power to regulate commerce. It grants that power to the Congress. Under that power and under that authority Congress has created the regulatory bodies which I mentioned, and more particularly the Interstate Commerce Commission.

The third paragraph is as follows:

> This section of the Constitution does not seem to admit any requirement that the President or the public hold the Interstate Commerce Commission or its Chairman "accountable for results in terms both of accomplishments and of costs." The regulation of interstate commerce under the Constitution is a function of government assigned to Congress—it alone is responsible therefor—not the President.

Not anyone else; only Congress.

I repeat the provision in plan No. 7 is directly contrary to the express intention of Congress in creating the Interstate Commerce Commission.

I urge the Senate not to sell short the democratic safeguards now attaching to administrative agencies. I urge it to preserve the independence of the arms of Congress dispensing quasijudicial justice to the people. While we need have no fears of arbitrary executive control over these agencies by the Executive so long as the present occupant remains in the White House, this is permanent legislation that is before us. I urge the Senate to preserve the independence and the safeguards against political domination which the Interstate Commerce Commission now enjoys. I urge the Senate to adopt resolution 253 disapproving Reorganization Plan No. 7 and thereby to preserve our democratic institutions.

Mr. President, I now desire to read some excerpts from statements made by certain of our distinguished leaders. I shall first quote from a statement made by former Senator Barkley, now Vice President of the United States who, when speaking of the very commissions about which I am speaking, said as follows:

> They are quasi-judicial and quasi-legislative. They are quite different from a commission which is created merely to aid the President in determining how he shall perform his executive duty of appointing people to office, in the way of testing their qualifications (for instance, the Civil Service Commission). One is an executive function, the others are legislative and judicial, and the only reason why the Interstate Commerce Commission was set up, and why the Federal Trade Commission, and the Power Commission, and the Communications Commission, were set up under the authority to regulate commerce among the States and with foreign governments, was the knowledge that Congress itself could not do that.

But plan No. 7 does just exactly what Vice President Barkley said he would never approve; it makes the ICC a one-man agency, just as plans Nos. 8, 9, and 11 make one-man agencies of the Trade, Power, and Communications Commissions.

Mr. President, many of the Members of the Senate now present remember one of our former distinguished colleagues, former Senator Bennett Clark, of Missouri, a parliamentarian of national reputation. I read now what he said regarding the necessity of maintaining independent regulatory bodies; this statement was made by him during the Senate debate in 1938 on the Government departments reorganization bill, the legislative culmination of a professional study of government and how to organize it. In that debate former Senator Bennett Clark, of Missouri, one of the Senate's greatest students of parliamentary history, pointed out that "the principal functions of such commissions as the Interstate Commerce Commission, the Federal Trade Commission, and the Communications Commission, are as agencies of the legislative branch of the Government and as extensions of the legislative power" and that "the important function which has been conferred on such commissions is the ascertainment of particular facts in order to carry out a policy of Congress enunciated in a statute" and "they are legislative rather than executive or administrative in character."

Mr. President, I wish to remind the Senate once more that the provision in the pending reorganization plan that the President shall designate the Chairman of the Interstate Commerce Commission is not a recommendation of the Hoover Commission.

Mr. SCHOEPPEL. Mr. President——

The PRESIDING OFFICER. Let the Chair inquire whether time has been yielded to the Senator from Kansas.

Mr. JOHNSON of Colorado. Mr. President, the Senator from Arkansas gave me authority to assign the time for him; and I assign 20 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 20 minutes.

Mr. SCHOEPPEL. I thank the Senator. I probably shall not use that much time.

Mr. President, in common, I think, with a number of other Senators—with the great majority of the Members of the Senate, I hope—I have approached in a friendly spirit all the 21 reorganiza-

tion plans sent to us with the President's message of March 13. I have considered all of them with the idea of giving them the benefit of every doubt and of supporting them unless it should appear that they are open to some substantial measure of objection. But my study of Reorganization Plan No. 7 of 1950, dealing with the reorganization of the Interstate Commerce Commission, leads me to the conclusion that it is essentially unwise and should be rejected, as proposed by Senate Resolution 253.

Plan 7 purports to carry out the recommendations of the Commission on Organization of the Executive Branch of the Government—the so-called Hoover Commission. Yet when we analyze its terms, we find that the most important feature of the plan represents a departure from the recommendations of the Hoover Commission.

The two really important changes which plan 7 is designed to bring about in the Interstate Commerce Commission are: First, centralization of control of the administrative affairs of the Commission in the office of the Chairman; and second, the transfer of the power to select the Chairman from the Commission to the President, so that the Chairman will hold office, as such, at the pleasure of the President. The Hoover Commission recommended the first of these two changes, but deliberately refused to recommend the second, which is by all odds, the most important and the most far-reaching part of the plan we now have before us. In spite of that fact, we are asked to support plan 7 as a product of the labors of the Hoover Commission. The truth is that this is not a Hoover Commission plan, but one that represents a very material departure from the recommendations of that body.

The movement for the reorganization of the Government is founded upon the expectation that it will secure two very desirable objectives: First, greater economy in governmental expenditures; and, second, greater efficiency of administration. It is very unlikely that either of these objectives would be furthered by the adoption of plan 7. In the message transmitting plan 7 the President candidly states that the plan "may not in itself result in substantial immediate savings." The view is expressed that the reduction in expenditures will probably come about in future years, although it is not possible to make a concrete estimate of the amount. The vagueness of this hope for savings in future years is indicated by the entire inability of the Director of the Budget, when he appeared as a witness in behalf of plan 7 before the Committee on Expenditures in the Executive Departments, to give the slightest indication of the amount of the prospective savings.

In the current budget for the next fiscal year, which now calls for approximately $42,000,000,000, the amount included for all the activities of the Interstate Commerce Commission is about $11,800,000. It would, of course, be something of an accomplishment if any substantial part of that sum could be saved by the proposed changes in organization; but those who advocate the plan are able to point to no accurate evidence of any such savings. The Committee on Expenditures in the Executive Departments, in making its favorable report on Senate Resolution 253, stated that plan 7 would not bring about any substantial economy in the expenditure of Government funds. It could come to no other conclusion on the basis of the showing made at the hearings.

There was likewise an absence of any real showing that the proposed changes would bring about an increase in the efficiency of the administration of the affairs of the Interstate Commerce Commission. The industries regulated by the Commission, those that are affected by the exercise of its regulatory powers, as well as those that practice before it, are unanimous in their condemnation of the plan. Carriers, shippers, and railroad labor speak with one voice in opposition to the plan. Among the organizations expressing opposition were: Railway Labor Executives Association, National Industrial Traffic League, American Bar Association, Association of Interstate Commerce Commission Practitioners, Association of American Railroads, American Short Line Railroad Association, American Trucking Associations, Freight Forwarders Institute, National Council of Private Motor Truck Owners, Transportation Association of America.

One certainly would think that if plan 7 really provided for greater efficiency in handling the business of the Commission, it would be favored by some of these organizations whose members would stand to benefit. The fact that all of them are arrayed in opposition to the plan is of more than ordinary significance. It means that those who are in day-to-day contact with the work of the Commission, and who are better acquainted than anyone else with its organizational structure, with its procedure, and with its functioning, find nothing in the plan of reorganization sufficient to warrant their lending their support to it. They represent divergent interests before the Commission, but all of them see eye-to-eye on this proposition. They are opposed to plan 7, and are asking us to vote in favor of Senate Resolution 253, which would register our disapproval.

The same position is taken by chairmen of the Senate and House Committees on Interstate and Foreign Commerce. The chairman of the Senate committee, the senior Senator from Colorado [Mr. JOHNSON] is the author of Senate Resolution 253. The chairman of the House committee, Representative CROSSER, of Ohio, is the author of House Resolution 545, the companion measure in the House.

As I have stated, the two principal changes in the Interstate Commerce Commission proposed by Reorganization Plan No. 7 are (1) centralization of the control of the affairs of the Commission in the office of its Chairman, and (2) the transfer of the power to select the Chairman from the Commission to the President. Each of these changes is objectionable, but the evils inherent in the separate features are magnified many times by their combination in a single plan. The cumulative effect of these two revisions in structure is to center in the hands of the Chairman a tremendous amount of control over the affairs of the Commission, and then to make him a subordinate of the President—holding office as Chairman at the pleasure of the President—thus opening the way for executive domination of an independent establishment which has always been and should continue to be a bipartisan arm of the Congress.

The very essence of the value of a regulatory tribunal lies in its independence. The Interstate Commerce Commission is now an independent regulatory agency performing quasi-legislative and quasi-judicial functions, as well as certain incidental administrative functions. Most of those duties are quasi-legislative, such as fixing rates for the future. Some are quasi judicial, such as the awarding of reparations for the past. Since, generally speaking, the Interstate Commerce Act requires a public hearing before the entry of an order, most of the procedure of the Commission is quasi judicial, even where the nature of the function exercised is of another kind. This requirement of notice and hearing in the procedure of the Interstate Commerce Commission as stated by the Supreme Court in the *Chicago Junction case* ((1924) 264 U. S. 258, 265), "implies both the privilege of introducing evidence and the duty of deciding in accordance with it." As the court said in *ICC* v. *Chicago and Pacific Ry.* ((1910) 218 U. S. 88, 102), the powers of the Commission "are expected to be exercised in the coldest neutrality." The Commission has no policy other than that of the statute which it administers.

If the Commission were subject to executive direction or political influence, if it were made amenable to pressure to decide not on the basis of the law and the facts but on the basis of someone else's notion of the requirements of public policy, then confidence in its impartiality would be gone and its usefulness would be destroyed. Yet one of the avowed objectives of plan No. 7 in having the Chairman of the Interstate Commerce Commission hold office as such at the pleasure of the President is said to be to "enable the President to obtain a sympathetic hearing for broader considerations of national policy which he feels the Commission should take into account," to use the words of the Hoover Task Force Report on Regulatory Commissions—page 32—a viewpoint repeated by the former executive secretary of the task force, Mr. Harold Leventhal, in his testimony on the pending resolution. In the President's message of March 13, 1950, transmitting the 21 plans, it is said that the first 13 of them, including plan No. 7, "all have the same objective: To establish clear and direct lines of authority and responsibility for the management of the executive branch."

These proposals are all incompatible with the constitutional doctrine of separation of powers and the traditional system of checks and balances. They are designed to give the President an improper measure of control over the quasi-

legislative and quasi-judicial functions of the Interstate Commerce Commission.

This incompatibility is strikingly illustrated by the unanimous decision of the Supreme Court of the United States in *Humphrey's Executor* v. *United States* (1934), (295 U. S. 602), one of the great landmarks of constitutional law on the subject of the relation of the independent regulatory commission to other branches of the Federal Government. President Roosevelt had attempted to remove Commissioner Humphrey of the Federal Trade Commission, for reasons, as stated by the President, that "I do not feel that your mind and my mind go along together on either the policies or the administration of the Federal Trade Commission," and "that the aims and purposes of the administration with respect to the work of the Commission can be carried out most effectively with personnel of my own selection." The case presented squarely the question whether a member of an independent regulatory commission holds office at the pleasure of the President, subject to removal by him at any time for failure to carry out Presidential policies. This, in turn, involved the further question whether such a commission is a part of the executive branch of the Government or is independent of it. The Supreme Court decided against the President on both points. It held that (1) the President was without the power of removal, and (2) the Federal Trade Commission, like the Interstate Commission, is not a part of the executive branch of the Government, but is a quasi-legislative and quasi-judicial agency which cannot, consistently with the purpose of its establishment, be subjected to Executive control. The Court, at pages 625–626, said:

> Thus, the language of the act, the legislative reports, and the general purposes of the legislation as reflected by the debates, all combine to demonstrate the congressional intent to create a body of experts who shall gain experience by length of service, a body which shall be independent of Executive authority, except in its selection, and free to exercise its judgment without the leave or hindrance of any other official or any department of the Government. To the accomplishment of these purposes, it is clear that Congress was of opinion that length and certainty of tenure would vitally contribute. And to hold that, nevertheless the members of the Commission continue in office at the mere will of the President, might be to thwart, in large measure, the very ends which Congress sought to realize by definitely fixing the term of office.

Again, at page 628, the Court said:

> The Federal Trade Commission is an administrative body created by Congress to carry into effect legislative policies embodied in the statute in accordance with the legislative standard therein prescribed, and to perform other specified duties as a legislative or as a judicial aid. Such a body cannot in any proper sense be characterized as an arm or an eye of the Executive. Its duties are performed without Executive leave and, in the contemplation of the statute, must be free from Executive control * * * to the extent that it exercises any executive function—as distinguished from executive power in the constitutional sense—it does so in the discharge and effectuation of its quasi-legislative or quasi-judicial powers, or as an agency of the legislative or judicial departments of the Government.

Again, at page 629, the Court said:

> We think it plain under the Constitution that illimitable power of removal is not possessed by the President in respect of officers of the character of those just named. The authority of Congress, in creating quasi-legislative or quasi-judicial agencies to require them to act in discharge of their duties independently of executive control cannot well be doubted; and that authority includes, as an appropriate incident, power to fix the period during which they shall continue in office, and to forbid their removal except for cause in the meantime. For it is quite evident that one who holds his office only during the pleasure of another, cannot be depended upon to maintain an attitude of independence against the latter's will.

On page 630 the Court said:

> The power of removal here claimed for the President falls within this principle, since its coercive influence threatens the independence of a commission, which is not only wholly disconnected from the executive department, but which, as already fully appears, was created by Congress as a means of carrying into operation legislative and judicial powers, and as an agency of the legislative and judicial departments.

The Court, while conceding that the President had the power to remove an executive officer, reviewed the expressions of James Madison on the question of the President's power of removal, showing that while Madison maintained that the President had the inherent right to remove officers of the executive department, he did not believe that this rule could properly be extended to the case of an officer whose functions partook of a judicial quality. The Court, at page 631, said:

> And it is pertinent to observe that when, at a later time, the tenure of office for the Comptroller of the Treasury was under consideration, Mr. Madison quite evidently thought that, since the duties of that office were not purely of an executive nature but partook of the judiciary quality as well, a different rule in respect of executive removal might well apply.

The proposal to place independent regulatory commissions within an executive department, or to put them under the direct administrative control of the President, is violative of the constitutional principle of separation of powers and the system of checks and balances. The functions of these agencies are not executive but quasi-legislative and quasi-judicial. The Message to Congress of March 13, 1950, dealing with plan 7, characterizing it, among other things, as a bold approach to the problem of delineating responsibility and authority for the management of the executive branch of the Government, reveals the same basic misconception of the status of the independent commissions that was unanimously condemned by the Supreme Court in the Humphrey case. The purpose of providing that the Chairman of the Interstate Commerce Commission shall hold office as such at the pleasure of the President is expressly stated to be to provide clearer lines of management responsibility in the executive branch. But as the decision of the Court in the Humphrey case makes clear, the Interstate Commerce Commission is not in the executive branch, and should have no line of responsibility to that branch. The Chairman should not be made to hold office as such at the pleasure of the President, because, to quote the language of the Court:

> It is quite evident that one who holds his office only during the pleasure of another cannot be depended upon to maintain an attitude of independence against the latter's will—

Nor are the apprehensions of danger in subordinating these independent quasi-legislative, quasi-judicial tribunals to executive control in any sense hypothetical or imaginary or unreal. Quite to the contrary they are solidly based on past experience. While President Wilson is reported to have said that he would as soon think of proffering suggestions to the Supreme Court upon a matter before it as to suggest how the Interstate Commerce Commission should decide a case—D. Philip Locklin, Economics of Transportation, third edition, 1947, page 299—in later years there have been, in spite of the Commission's secure legal status—up to this time—as an independent agency, attempts to bring political influence to bear upon it. Many of these incidents, some of them involving attempted exertions of executive pressure, have become a matter of public knowledge and are recounted in standard books dealing with the work of the Commission or the economics of transportation—Sharfman, The Interstate Commerce Commission, volume 2, pages 452–489; Vanderblue and Burgess, Railroads: Rates—Service—Management (1923), pages 113–114; D. Philip Locklin, Economics of Transportation, third edition, 1947, page 299.

Some of them are set forth in the testimony at the hearings on Senate Resolution 253. It may not be amiss to quote an excerpt from an address entitled "In the Public Interest" delivered in 1928 before the University of Wisconsin chapter of Phi Beta Kappa by Mr. B. H. Meyer, then a member of the Interstate Commerce Commission:

> The Commission has always been an independent body. It has nothing to do with politics and no political influence has ever determined its official action on any question. I must admit, however, that occasionally attempts have been made to nibble politically at the Commission. In the past these nibbles were sometimes annoying but never harmful. It has remained for recent time to attempt to control Commission action through political channels. These attempts were made boldly and at times with fury. Every one of them has failed. I do not believe they ever will succeed, but it will be a sorry day for our Government if they ever should succeed.

There have been in the past attempts by the executive branch to exert pressure upon the Commission to influence its decisions in important contested cases. Up to this time the Commission by virtue of its independent status has been able to resist these pressures. If the independence of the Commission is destroyed or substantially impaired by making it amenable to the suggestions of the President or his associates in the executive branch of the Government, it may no longer be able to resist these improper

encroachments. The only way to insure the continued independence of the Commission, in my humble opinion, is to vote in favor of Senate Resolution 253 and to disapprove the encroachments upon the Commission's independence which are inherent in plan 7.

The PRESIDING OFFICER. The question is on agreeing to Senate Resolution 253.

Mr. McCLELLAN. Mr. President, the proponents of the resolution have consumed their time. I suggest that the opponents should now proceed.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Chair is ready to recognize the junior Senator from Minnesota.

Mr. JOHNSON of Colorado. Mr. President, on behalf of the Senator from Minnesota, I yield 30 minutes to the Senator from Connecticut [Mr. BENTON].

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 30 minutes on the time of the junior Senator from Minnesota.

Mr. BENTON. Mr. President, the distinguished Senator from Colorado has suggested 30 minutes, but I do not expect to continue for that long a time.

I pointed out last Thursday, Mr. President, that I felt my role was an unhappy one in my opposition to the resolution disapproving Reorganization Plan No. 1. I said it was unhappy because, as the most junior Member of this body, I did not like the lonesome feeling which was generated in me at that time, when I gave the only talk on the floor opposing the resolution rejecting the President's reorganization proposal.

I feel lonesome again today, Mr. President, and I feel unhappy about it. I feel unhappy, further, because it was only yesterday that the reports on the resolution we are now debating were filed. At 11:30 o'clock this morning I was still endeavoring to get a printed copy of the report, and I did not anticipate that this debate would come up on the floor so precipitously, from my standpoint at least, at this time.

Finally, Mr. President, I feel unhappy at the nature of the current debate, because, just as I stated on the floor last Thursday, we have here before us an illustration—another one—of a business group in our economy taking a position which is against its own best interests and against the long-range interests of the businessmen and business communities of America.

As I conceive these long-range interests, they are tied up with the securing of greater efficiency in the Federal Government. It is the large business corporations which pay a high percentage of national taxes and by whom a large percentage of the waste and inefficiency of the Federal Government is destined to be felt in the billions of dollars which former President Hoover estimates are being wasted by the present inefficiencies in our governmental establishments.

Last Thursday the bankers were the opposition to the reorganization of the Treasury Department. On Reorganization Plan No. 5—the Department of Commerce—it is the patent attorneys. This afternoon it is the railroads.

I should like to point out to the Senate that there is a substantial group of regulatory commissions covered in these several plans. What applies to the ICC applies to many others. Recent regulatory commissions, under the laws establishing them, have their chairmen appointed by the President. That is exactly what is feared—applied to the ICC—by the railroads and their attorneys who appeared before the Committee on Expenditures in the Executive Departments. Yet the Congress, when it established the Maritime Commission, the Federal Communications Commission, the CAB, and the NLRB provided that the President should appoint the chairmen. So there is nothing novel or revolutionary about the proposal that the President now be allowed to appoint the Chairman of the Interstate Commerce Commission.

Moreover, in other reorganization proposals which have been considered by the Committee on Expenditures in the Executive Departments, the proposal that the President be allowed to appoint the chairman has been agreed to by the committee. This applies to the Federal Trade Commission, the Federal Power Commission, and the Securities and Exchange Commission. There were virtually no witnesses before the committee opposing the similar reorganization plans for these agencies. The committee, in the cases of these three agencies, voted to approve the President's reorganization plans. As to the Interstate Commerce Commission, which we are now debating, the vote was only 6 to 5 against the proposed reorganization, with two members absent. Thus the committee was closely divided on the pending proposal, which is the only such proposal coming from the President which was rejected by the Committee on Expenditures in the Executive Departments.

Many of the inquiries coming to my office express surprise at the inconsistency on the part of the committee. They ask me to explain it. Why do we approve three and reject a fourth which is similar? Mr. President, the inconsistency is not very hard to explain. We do not have to look very far for it. We need look only at the list of witnesses who appeared before the committee to oppose Reorganization Plan No. 7.

Mr. LUCAS. Mr. President, will the Senator yield for a question?

Mr. BENTON. I am glad to yield.

Mr. LUCAS. My attention was diverted a moment ago when the Senator was naming to the Senate the different agencies as to which the committee has already approved a transference of power to the chairman. Will the Senator name those agencies again? It seems to me that it is of tremendous importance.

Mr. BENTON. Yes; I am grateful for the question. There are two broad categories of these regulatory agencies, which are 11 in number, I believe. There are, first, the agencies with respect to which the President already has statutory power to appoint the Chairman. These include agencies which were most recently established by Congress. They are the Federal Communications Commission, the National Labor Relations Board, the Civil Aeronautics Board, the Maritime Commission, and the Federal Reserve Board. The Maritime Commission and the Federal Reserve Board are in a special category because they are not the subject of reorganization proposals. The Maritime Commission was reorganized by plan No. 6 in 1949, along exactly the lines proposed here for the ICC.

The second broad group which are the subject of reorganization proposals are agencies whose chairmen the President does not now have the power to appoint. In each of the four reorganization proposals to which I have referred this power is sought on behalf of the President. As I have said, in the case of three of these agencies virtually no witnesses appeared before the committee in opposition to this grant of power to the President, and the Committee on Expenditures in the Executive Departments has acted favorably on the reorganization proposals as recommended by the President. In the case of the fourth, the Interstate Commerce Commission, which we are now discussing, a group of formidable witnesses appeared in opposition to the proposed reorganization, and it was that group that I was about to comment on when the Senator from Illinois asked me the question.

Mr. LUCAS. Mr. President, will the Senator yield further?

Mr. BENTON. I yield.

Mr. LUCAS. In other words, the Congress of the United States, by passing statutes and approving certain reorganization plans has done the very thing that those who oppose the resolution are now seeking to do? In other words, it has been done in two different ways. In the case of two of the agencies the Senator has named Congress has acted by passing statutes.

Mr. BENTON. In the case of six agencies.

Mr. LUCAS. In the case of six agencies the Congress has passed upon that very phase of legislation which is now being challenged by those who seek the disapproval of plan No. 7. In other words, with reference to six agencies, the Congress has said that such power shall reside in the Chairman.

Mr. BENTON. Yes; by law.

Mr. LUCAS. By law.

Mr. BENTON. That is correct.

Mr. LUCAS. We have also done the same thing, as I understand, in the case of some of the reorganization plans which have heretofore been passed upon.

Mr. BENTON. Congress has not exercised its final say-so, but the committee has given its approval on three more.

Mr. LUCAS. The committee has given its approval to the President's recommendations.

Mr. BENTON. Yes; in three of the four agencies now under discussion it has recommended approval of the reorganization proposals. That is exactly correct. Therefore there is this in consistency, applied to the ICC, and I was about to examine into what seemed to be the reasons for the inconsistency.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. BENTON. I yield.

Mr. JOHNSON of Colorado. I should like to correct a conclusion which the Senator from Illinois [Mr. LUCAS] seems to have reached. It is not the appointment of the chairman that is so important. It is the transfer of the duties of the Commission to the chairman. As I pointed out a few moments ago, under plan No. 7 six important functions of the Commission would be transferred to the chairman, who would be appointed by the President. I listed them a short time ago, and I do not wish to take the time of the Senator to list them again. However, it will take only a moment. They are: First, the appointment and supervision of personnel. Second, the assignment and distribution of work among the administrative units of the agency. Third, the use and expenditure of funds. Fourth, the control and supervision of hearing examiners, thus amending substantive law and striking a telling blow at the separation of prosecutory and judicial functions. Fifth, the direction and control of the Director of Locomotive Inspection and his two assistants in the performance of their functions. That is why the railroad brotherhoods are pleading that this plan be not approved. Sixth, the democratic right to select its own chairman.

Mr. LUCAS. Will the Senator from Connecticut yield so that I may ask the chairman of the committee a question?

Mr. BENTON. I am glad to yield.

Mr. LUCAS. With respect to the executive functions which would be transferred, as the Senator suggested, may I inquire whether or not the Hoover Commission made the recommendation that this transfer be made.

Mr. JOHNSON of Colorado. The Hoover Commission did not make the recommendation that the Chairman of the ICC be appointed by the President.

Mr. LUCAS. That is not what I asked. I asked whether the Hoover Commission made the recommendation with reference to the transfer of the executive functions which the Senator is now complaining about.

Mr. JOHNSON of Colorado. The Hoover Commission made the recommendation of the transfer of these functions to the chairman, but the Hoover Commission left the appointment of the chairman to the Commission.

Mr. LUCAS. Did it? That is the question.

Mr. JOHNSON of Colorado. That is what it did.

Mr. LUCAS. Will the Senator yield for another question?

Mr. BENTON. Yes.

Mr. LUCAS. I undertake to say that the Hoover Commission said this:

> As a general proposition we recommend that all administrative responsibility be vested in the Chairman of the Commission.

The citizens committee, which has had such great interest in these reorganization plans, has this to say in its report:

> The President lacks power under present laws to appoint the chairmen of four independent regulatory agencies. These are the Interstate Commerce Commission, the Federal Power Commission, the Federal Trade Commission, and the Securities and Exchange Commission. Conformance with general recommendations of the Hoover Commission is properly claimed for plans Nos. 1 through 11 and 13.

In other words, the citizens committee for the Hoover Commission report definitely says that in its opinion what is being done here under the plan laid down by the President is proper under any construction of what the Hoover Commission recommended.

Mr. President, I should like to say one further thing. I do not believe I have received as many letters on any major piece of legislation from my constituents as I have on the reorganization of the Government. I do not think that any Senator can conscientiously go back to the people and tell them that we are not reorganizing the Federal Government in line with what the Hoover Commission has said and in line with what the President of the United States has requested on the theory that because one chairman would be getting a certain amount of power we are not reorganizing the Government.

That is especially true in view of what Congress has done on six different occasions previously in lodging power, by statute, in the chairmen of commissions, and especially in view of the report of the committee which has just come forward, as explained by the Senator from Connecticut, showing that three out of four of the regulatory commissions have been passed on by the committee favorably from the standpoint of the recommendation of the President of the United States.

Mr. President, there is being done exactly what has always been done with respect to the reorganization of the branches of the Government. Every time we attempt to reorganize the Government, there is always someone who wishes to be exempted, there is always something in the way of an excuse to exempt some particular agency from being reorganized.

If we do not reorganize the four different agencies of the Government now under consideration by the Congress, and give the President some power to do the job, then, in my opinion, we will have neglected to carry out the essential recommendations made by the Hoover Commission.

Mr. BENTON. Mr. President, I am very grateful to the eloquent Senator from Illinois for making such an appropriate statement on this question at this time. He makes me feel less lonely than I feared I was going to feel during the course of my remarks.

I should like now to quote and supplement the statement of the task force of the Hoover Commission which bears directly on the remarks of the Senator from Illinois. This is what the task force said, as applied to the Interstate Commerce Commission:

> We recommend that the chairman of each commission should be designated from among the members by the President and should serve as chairman at his pleasure.
>
> This proposal is closely related to our recommendations, discussed in the next chapter, that the chairman should be recognized as the administrative head of the agency.
>
> The designation of the chairman by the President is not a novel proposal. Under existing law, the President names the chairmen of five of the nine commissions—

Mr. President, I have stated that the President appoints six of the eleven. Perhaps I have included two which were not included by the task force and this may reconcile the figures. I continue the quotation:

> one to serve for 4 years, one for 1 year, and the other three apparently at pleasure. While the other four commissions select their own chairmen, the members of two of them have frequently chosen a member informally suggested by the President (Securities and Exchange Commission and Federal Power Commission).
>
> Our recommendation is merely that the practice of selection by the President be made the general rule by statute, and that the chairman serve as such at the pleasure of the President in all cases, although protected against removal as a member.
>
> Designation by the President provides an acceptable channel of communication between the commission and the President, without impairing the proper independence of the commission.
>
> The second important advantage of Presidential designation is that it assists in achieving the objective of improving the internal administration of the commissions.

Mr. President, the points of new authority to be given to the new Chairman of the ICC under the proposal under discussion, as set forth by the able Senator from Colorado who favors the resolution of disapproval, is exactly the same list that also applies to the proposed chairmen of the other three commissions on which the committee has acted favorably. If this proposal is undemocratic in the case of the ICC, it is manifestly undemocratic in the case of the SEC, the FTC, and the FPC. I deny that it is undemocratic. I do not approve the use of the word "democratic" as applied to the problem of securing administrative efficiency. I think it is a word which confuses and beclouds the fundamental subject we should be discussing, namely, fixing authority and fixing responsibility, so that responsibility and authority will coincide, and can be seen in public, out in the open, where we can get our eyes upon them, know who is responsible, and hold him responsible when things go wrong, instead of getting lost in the murk and obscurity of the labyrinthine halls of the great buildings of Washington.

I wish to revert, if I may, to the point I was discussing when I was interrupted by the question of the Senator from Illinois. I should like to read the list of witnesses who appeared before the committee in opposition to the President's proposal for the reorganization of the Interstate Commerce Commission. It is as follows:

> Jonathan C. Gibson, vice president and general counsel, Santa Fe Railroad, representing the Association of American Railroads.
>
> J. Ninian Beall, chairman, Association of Interstate Commerce Commission Practitioners.
>
> R. Granville Curry, Association of ICC Practitioners.

Edgar S. Idol, American Trucking Association.

Giles Morrow, Freight Forwarders Institute.

Arthur L. Winn, Jr., Association of Interstate Commerce Commission Practitioners.

Donald D. Conn, Transportation Association of America.

A. E. Lyon, Railway Labor Executive Association.

Herschel A. Hollopeter, transportation director of Indiana State Chamber of Commerce.

W. H. Ott, Jr., National Council of Private Motor Truck Owners, Inc.

Senators will notice that very largely these are lawyers who have an interest in the Interstate Commerce Commission, and representatives of trade associations, who also have a direct interest in it.

Mr. President, I now wish to read a selection from the testimony before the Committee on Expenditures in the Executive Departments, to show how I, as a member of the committee, attempted to secure from the witnesses evidence growing from the operation of those regulatory commissions where the chairmen are now serving by Presidential appointment.

When Mr. Beall, the chairman of the Association of Interstate Commerce Commission Practitioners, with a long background of legal practice in Washington, was before the committee, I asked him questions which I desire to read. I quote this testimony because it has a direct bearing on the fears expressed previously on this floor by the opponents of the proposal to reorganize the Interstate Commerce Commission.

I asked Mr. Beall:

Do you have any evidence that the kind of political influence that you fear in the Commission through a Presidential appointment of the chairman exists in the case of other commissions where the President now has the authority to appoint the chairman?

I will say, Mr. President, that surely there should be such evidence with respect to the six other commissions, if there exists sufficient bona fide evidence of danger concerning the Interstate Commerce Commission.

Mr. Beall replied:

With respect to your question, I am in the unfortunate position of not being too familiar with the other commissions. My testimony and background is with the Interstate Commerce Commission.

In other words, Mr. President, this distinguished lawyer, out of his own interests as he sees them, is testifying against a reorganization of the Interstate Commerce Commission designed to put it on efficient lines paralleling those of six other commissions now operating under chairmen with administrative authority, without having even found out or inquired as to how these other six commissions are operating with their chairmen who are appointed by the President.

I then said to Mr. Beall:

The President does have the power to appoint the chairmen of certain commissions. If the practice is unsound and opens the commission to political pressures and influence, I think there should be a good deal of evidence from other boards where we have been following this other practice for some years.

Mr. Beall replied:

My information on the subject is very limited. I heard testimony to the effect that for a number of years the President had considerable influence, or was thought to have, with the Maritime Commission. That situation prevailed for a period of about 9 years, according to some of the testimony, but in the last 2 or 3 years it has not been the case.

Senator BENTON. The clerk points out that the President appoints the Chairman of the Securities and Exchange Commission. I have heard reports of influence in the Securities and Exchange Commission. * * *

But—and I wonder if you think there is political pressure there or in the Federal Communications Commission or in the National Labor Relations Board or the Civil Aeronautics Board, to the point where, in these four agencies, we have experience or evidence to validate your fears about the Interstate Commerce Commission.

Mr. Beall replied:

I think there is all the danger in the world.

Upon which I asked him:

Have you heard of any? You are in Washington. You have been practicing here for 30 years.

Mr. Beall replied.

That is the trouble, Senator. I want to stay here.

Then I said:

I wonder if you have heard of political pressures. You are practicing law here, and if you are not familiar with such charges, if we do not have the sinister political influences at work in these four where the President appoints the Chairman, I think there would be a presumption that he might appoint the Chairman of the Interstate Commerce Commission without throwing it open to these sinister political influences.

Mr. Beall replied:

I do not want to volunteer a lot of hearsay information.

Then I queried:

We are having too much hearsay these days. I yield to your thought.

The VICE PRESIDENT. The time of the Senator from Connecticut has expired.

Mr. BENTON. Mr. President, the Senator from Minnesota [Mr. HUMPHREY] is not on the floor at the moment. If the Senator were on the floor, I would ask him for another 5 minutes of time. He is voting on reorganization proposals in a meeting which is now being held by the Committee on Expenditures in the Executive Departments.

Mr. LUCAS. Mr. President, I ask unanimous consent that the Senator from Connecticut be allowed 5 minutes additional time, that time to be charged to the time controlled by the Senator from Minnesota.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. BENTON. Mr. President, I believe these witnesses in looking at this issue wholly and, I feel, narrowly from the standpoint of their own perspective and their own interest, as the testimony I have just read brings out, are doing themselves a disservice, because in blocking these reorganization proposals, the one now under consideration being the third one to reach the floor, they are encouraging every vested group, each in its turn, to move in upon the proposals that are still to come before us, and they are furnishing an object lesson which is a very unhappy one, at the Federal level, which will in turn be used in connection with problems to be dealt with at the State level and even at the municipal level.

Mr. President, I should like to point out that the famous and esteemed Mr. Eastman, whose name we all associate with the leadership of the Interstate Commerce Commission favored a permanent instead of a rotating chairman of the Interstate Commerce Commission. Mr. Eastman was referred to by Mr. Beall as follows:

Mr. Eastman was a very capable man who had dedicated his life to this kind of work. He was an outstanding administrator. Everybody had confidence in him.

Mr. President, the opponents of the reorganization of the ICC do not discuss in any detail the administrative matters which are to be turned over to the chairman. The so-called quasi-judicial and quasi-legislative functions of these commissions are not to be turned over. On the contrary, Mr. President, this plan would free the commissioners, and give them time to think and study and to devote themselves to these high-level policy questions which are involved in the judicial and legislative aspects of their responsibilities.

Having listened to the testimony of the opposition witnesses it is my own view that better men would be attracted to these posts if they were not weighted down with this jockeying, this log-rolling in committee meetings over administrative details, and so forth. Time spent on these administrative matters seriously impinges on the time of the individual commissioners which is required for high-level policy thinking and action in the legislative and judicial fields. I submit to the Senate that it is in the interest of efficiency to have a system which will attract the highest type of men into the Federal Government.

I therefore believe, Mr. President, that Reorganization Plan No. 7 should be approved and should be approved on the basis of its merits.

I agree with the remarks of the distinguished Senator from Illinois that improved administration in all these regulatory commissions does not call for any more lip service from us. Improved administration calls for concrete approval and actual support, and I hope we will show the vested and special interests of the country that they will meet resistance when they come and plead with the Government "to reorganize everybody but leave me alone," "do it to the other fellow, but do not touch me."

The opposition to these plans right straight through comes from groups which do not see the problem of Government efficiency as a whole, and which are prepared, thoughtlessly or heedlessly, to sacrifice the public interest for what they often mistakenly deem to be their own interest.

Further, the witnesses often claim to speak for groups which they do not truly

represent. I documented that at length on the floor last Thursday. Many groups seemingly in opposition have heard one side only, and would favor the reorganization proposals if the many complex issues were adequately presented to them.

It is, of course, my opinion that even the semijudicial functions and the semilegislative functions will be better handled under this new plan when under the kleig lights of responsibility directly vested in department heads. They would be far less subject to abuse than when handled, as all too often at present, in obscurity, as so frequently is the case, by subordinate officials.

The VICE PRESIDENT. The time of the Senator from Connecticut has expired.

Mr. HUMPHREY. Mr. President, let me ask how much time remains for the proponents of the reorganization plan.

The VICE PRESIDENT. The Senator has 54 minutes remaining.

Mr. DOUGLAS. Mr. President, will the Senator from Minnesota yield for the purpose of permitting me to ask of him certain questions which I have, not only about Reorganization Plan No. 7, but also about all the reorganization plans affecting regulatory agencies in general?

The Senator is a member of the Committee on Expenditures in the Executive Departments and is supporting these reorganization plans. Therefore, I am particularly interested in his interpretation of these plans as to how they affect such bodies as the Federal Trade Commission and the Federal Power Commission.

Mr. HUMPHREY. I am very happy to yield to the Senator from Illinois for that purpose.

Mr. DOUGLAS. Let me ask the Senator from Minnesota if it is not true that the reorganization plans affecting the regulatory commissions generally, and Reorganization Plan No. 7 in particular, give to the Chairman, who is to be appointed by the President, administrative powers and control over procedural issues, but still leave to the body of the various commissions the determination of policies and the determination of so-called substantive issues. Is my understanding of that matter correct?

Mr. HUMPHREY. The Senator's interpretation of the reorganization plan is accurate, according to the testimony which was presented before the committee and according to my observations.

These regulatory agencies were set up to provide stability in their enforcement and regulatory functions. In order to be able to provide stability and to be able to handle the tremendous amount of administrative detail that is required of an agency of such scope, it is important, according to the Hoover Commission task force reports on reorganization and the report of the Hoover Commission itself, that there be a concentration of administrative, functional powers—what we call the housekeeping powers—in the chairmen of the respective agencies. This would not, however, include powers affecting substantive policies of a commission.

Mr. DOUGLAS. Mr. President, will the Senator yield for a further question?

Mr. HUMPHREY. I yield.

Mr. DOUGLAS. Suppose the chairman of a commission states that a given matter is procedural and that, therefore, he has jurisdiction over it; but suppose other members of the commission believe that the matter is substantive and policy making in nature or character. Would the commission then have any authority to overrule the chairman, and make the determination themselves?

Mr. HUMPHREY. Mr. President, it is my understanding that matters which deal with the substance of regulations, the substance of policy, and the substance of the law are left to the commission as a whole; and where there is a conflict as between what is procedural and what is substantive, it is my interpretation that the vote of the commission as a whole will overrule the administrative decision of the chairman.

Mr. DOUGLAS. Without wishing to make an all-inclusive list of the subjects which are substantive, rather than procedural, let me inquire whether it is the opinion of the distinguished Senator from Minnesota that the following subjects would be substantive, rather than procedural, and therefore would be under the control of the commission, rather than under control of the chairman: For example, first, the choice of the particular subjects to be investigated by the commission.

Mr. HUMPHREY. That is a substantive matter.

Mr. DOUGLAS. The commission itself, not the chairman, would have power over that; is that correct?

Mr. HUMPHREY. That is correct.

Mr. DOUGLAS. Second, the methods to be used by the commission in conducting its major investigations.

Mr. HUMPHREY. That is a substantive matter.

Mr. DOUGLAS. Third, the assignment of personnel to carry out the investigations.

Mr. HUMPHREY. I would say that the ultimate bookkeeping as to the assignment of personnel would be an administrative matter, but the assignment of personnel to duties—for example, the bureau chiefs or assistant bureau chiefs—is a substantive matter, and would be left to the commission. I think it very important that the distinguished Senator bring up that point and stress it as a part of the legislative history of the reorganization plan.

Mr. DOUGLAS. But the final decisions as to the subjects to be investigated by the commission, the methods to be used, and the personnel to make the investigations would be made and determined by the commission; is that correct?

Mr. HUMPHREY. Yes, by the commission as a whole.

Mr. DOUGLAS. If the Chairman of the Commission should wish to punish a member of the staff by sending him to some far-off place or by assigning him duties of little consequence in order to get him out of the way, but the Commission felt that to do so was not in the public interest, could the Commission overrule the Chairman?

Mr. HUMPHREY. They could.

Mr. DOUGLAS. They could prevent him from causing that employee to be sent to the American equivalent of Coventry?

Mr. HUMPHREY. I am sure they could, according to my understanding of the reorganization plan.

Mr. DOUGLAS. Will the Senator from Minnesota give his interpretation of the following: Is the appointment of heads of major administrative units a procedural matter or a substantive matter?

Mr. HUMPHREY. I wish to say to the Senator from Illinois that that question has been brought up for considerable study, and it was brought up in the form of questioning at the time of the hearings.

It is my interpretation that these reorganization plans affecting regulatory agencies mean that the commission or agency as a whole shall have a voice in the appointment, in the promotion, or in the demotion of the heads of major administrative units—and in that connection, the word "heads" is used in a plural sense. That is to say, the Commission would have a voice in the selection of and in the assignment of duties for bureau chiefs, assistant bureau chiefs, division chiefs, or chiefs of similar administrative units.

I want that point made crystal clear, because I am sure there is a great deal of misunderstanding about the powers of the Commission as compared to the powers of the administrative head or of the Chairman of the Commission.

Mr. DOUGLAS. In other words, we are not creating administrative czars?

Mr. HUMPHREY. Certainly we are not. What we are attempting to do is to expedite the work of the Commission.

If every single commissioner is going to be engaged in a great deal of administrative detail, in the signing of all kinds of documents and in the processing of innumerable papers, and is going to be involved in all manner of personnel relationships, insofar as they are routine, that will bog down the quasi-judicial and quasi-legislative functioning of the Commission.

The report of the task force and of the Hoover Commission itself indicated the desirability of having a chairman who had such administrative powers, and to relieve the other commissioners of them.

Mr. DOUGLAS. But am I correct in concluding that this power is not to be used as a cloak behind which the chairman of the Commission can take over the disciplining of the staff and the determination of the policies of the Commission? Is it true that the Commission is ultimately to be responsible for the delegation of work and for the major policies to be followed, not only in the final determination of issues, but in the investigation and processing of complaints and requests; is that correct?

Mr. HUMPHREY. The Senator from Illinois has stated the matter very accurately. When the words which are

used tell me that the Commission as a whole shall make the determinations of policy and the policy decisions, that is the fact; and then the chairman of the Commission shall be left to carry out, if you please, the determinations of policy and the other procedures involving policy which have been prescribed by the Commission.

Mr. DOUGLAS. I thank the Senator from Minnesota. I hope this record in the debate will be taken to heart by the chairmen of the various administrative bodies and will be authoritative legislative history, with the understanding that it applies not only to Reorganization Plan No. 7, but to all the other reorganization plans affecting regulatory agencies.

Mr. HUMPHREY. In reference to the comment which has been made by the Senator from Illinois, I may say that insofar as plans Nos. 8, 9, and 11 are concerned, which plans are identical in purpose, but relate to other administrative agencies, the Committee on Expenditures in the Executive Departments rejected the resolutions of disapproval of those plans. Let me say that the committee by majority vote approved those plans, as was brought out very clearly by the Senator from Connecticut.

At this time I think it would be well to listen to the words of the Director of the Bureau of the Budget, Mr. Lawton, who testified before the committee. His testimony is recorded in the minority views on Reorganization Plan No. 7.

Mr. Lawton said:

> The sole objective of these plans is improved organization and administration of these agencies, and in no way do they modify or alter the substantive laws administered by these bodies.

Mr. President, I think his words are quite clear in that respect, namely, that "in no way" do these reorganization plans "modify or alter the substantive laws administered by these bodies."

He further said:

> These plans were developed as a part of a general pattern of reorganization for all regulatory commissions.

Again I wish to emphasize a part of his statement, namely, that the plans are "a part of a general pattern of reorganization for all regulatory commissions."

Mr. President, I see no reason why any one commission should receive specialized treatment. This is not to say that the work of the Interstate Commerce Commission is not good work. However, this program is one designed to secure basic improvement. It appears to me that, as the majority leader said so well a few minutes ago, if we are going to have reorganization, then we ought to have reorganization.

I should like to point out also that my office has been deluged with letters from all over America, written by people who are tremendously concerned with the matters of executive reorganization. There is overwhelming support in this country for the basic recommendations of the Hoover Commission. I must say in all honesty I am sure that some folks who write us letters are not fully familiar with all those recommendations, but there is a desire that there be an improvement in the organizational structure of the Government. That improvement may yield what we call dollar economy. In some instances it may not yield dollar economy. But it is the intention of the reorganization plans to yield efficiency of service, to expedite the tremendous workload with which the respective regulatory commissions are confronted.

Mr. Lawton went on to state further that this general pattern was recommended by the Commission on Organization of the Executive Branch of the Government. I think it should be clearly stated that the Hoover Commission did not necessarily in each and every instance go right down the line and suggest language that was identical with the President's reorganization plan. What the President attempted to do in his reorganization plan was to follow a general pattern of reorganizational structure, such as that recommended by the Hoover Commission. As the report states—and I do not think any better language can be found to state the objectives of this reorganization plan—

> The purpose of plan No. 7, therefore, is to improve the organization of the Interstate Commerce Commission by making the chairman responsible for day-to-day administration, subject—

And this is what the Senator from Illinois was asking about—

> subject to the general policy guidance of the Commission.

In other words, the commission establishes the general policy. This plan has no purpose of altering the performance of the substantive functions; that is, the regulatory functions, the fact-finding functions, the trial-examiner functions vested by law in the Interstate Commerce Commission. I am sure that the inspectional services, the trial-examiner functions, the regulatory and investigative functions are the functions which are most important to the parties affected, that is, to the railroads, to the trucking lines, to the agents of commerce.

What did the Hoover Commission really have to say about this reorganization program with respect to the administrative agencies? In the minority views, particularly those of the Senator from Rhode Island [Mr. LEAHY], the Senator from Connecticut [Mr. BENTON], and myself, we pointed out that this reorganization plan is in strict conformity with the recommendations of the Hoover Commission and its task force on regulatory agencies. Here is what the Hoover Commission had to say on regulatory commissions, quoting now directly from the Hoover Commission report:

> Administration by a plural executive is universally regarded as inefficient. This has proved to be true in connection with these commissions. Indeed, those cases where administration has been distinctly superior are cases where administrative as distinguished from regulatory duties have been vested in the chairman.

There are many of these administrative duties. Their efficient handling will frequently mean the difference between a commission's keeping abreast of its work or falling woefully behind.

The first recommendation, then, of the Hoover Commission was this:

> 1. We recommend that all administrative responsibility be vested in the Chairman of the Commission.

In commenting on this recommendation, the Commission went on to say that this recommendation does not derogate from the statutory responsibilities placed upon the other members of the Commission. They remain exactly as they are, and because of the better functioning of the organization the Commission members will be enabled to discharge these responsibilities much more effectively.

The Hoover Commission then made a further recommendation. This was the Commission's sixth recommendation in the report on regulatory commissions: It recommended therefore that the statutes be amended so as to permit the Commissions to delegate routine, preliminary, and less important work to members of the staffs under their supervision.

The Hoover Commission's recommendations were based on a study by its task force on regulatory agencies, and that particular task force made a very brilliant report on the regulatory agencies of government. From that report we have a very important quotation or paragraph which I think sets forth the meat of the report. Here is what the Hoover Commission task force had to say:

> In order to prevent the absorption of all the Commissioners in administrative details at the expense of the substantive work, the Chairman should be specifically designated as the person responsible for administration within the Commission.
>
> The duties of the Chairman should include—
>
> First. Supervision of the various bureaus and divisions from the administrative point of view, such as their workload, backlog, progress, and programs.
>
> In other words, keep the respective bureaus up to their quota of work, see that their program is progressing well, get the monthly reports from the respective bureaus; and instead of having the reports go to each and every Commissioner, have them go to a central office and then to the administrative head.
>
> The second recommendation as to the duties of the Chairman was this:
>
> Direction of the administrative divisions of the Commission—those dealing with the budget, personnel, management analysis, and office and miscellaneous services.

In other words, the Chairman of the Commission would be responsible for the procurement of supplies, for his agents under his direction, for the keeping of personnel records, for the preparation of the budget. Under the present situation, this is a uniform responsibility for the entire Commission.

Mr. BENTON. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Connecticut?

Mr. HUMPHREY. I am glad to yield.

Mr. BENTON. Is the Senator aware of the fact that last year, in Reorgani-

zation Plan No. 6, the Congress acted favorably on giving to the Chairman of the Maritime Commission exactly the responsibilities which are sought by plan No. 7 to be bestowed on the Chairman of the Interstate Commerce Commission? I have before me the two documents, which are almost word for word identical. Is the Senator aware of that?

Mr. HUMPHREY. I am. I am very familiar with it, because I was present on the floor when those reports were brought to the attention of the Senate. I was a member of the committee, and I recall at that time that we felt that this was notable progress.

Mr. BENTON. Has the Senator heard any criticism of the Maritime Commission within the past year with respect to its being undemocratic or less democratic or in any way having suffered adversely along the lines of the fears expressed on the floor of the Senate this afternoon, because of the reorganization of 1 year ago?

Mr. HUMPHREY. The Senator from Minnesota has heard some criticism of the Maritime Commission, but not because of what happened under the reorganization. The criticism I have heard is that the reorganization was not carried far enough and that further reorganization needs to be accomplished, which will soon be before the Senate. So I want to say I think the point made by the Senator from Connecticut is extremely pertinent, because it is quite evident now that we have already set a pattern by congressional approval of plan No. 6, and as both the Senator from Connecticut and myself have pointed out, in plans 8, 9, and 11, there is approval on the part of the committee which heard the testimony.

Mr. President, one of the bureaus of the Interstate Commerce Commission which has been very dear to the hearts of the men who operate locomotives, to those who work on the railroads, has been the Bureau of Locomotive Inspection. The activities and duties of this bureau have been of great importance to those who are in charge of the locomotives, the engineers and the firemen; in other words, to the men who work on the railroads. That is exactly the way it ought to be, because proper inspection means the difference between life and death. I want it quite clear from my interpretation of the pending reorganization plan that the administrative officer in charge, the chairman, has no power to alter the functions of that bureau and no power to change its responsibilities under the law pertaining to its establishment.

I note that in the minority report specific language has been used, and I think it should be called to the attention of all persons interested in this reorganization plan:

> It should be emphasized that Reorganization Plan No. 7 does not provide for the transfer of the Bureau's functions to the chairman.
>
> The Bureau's functions are still those of the Bureau.
>
> The Bureau's functions remain with the locomotive inspectors. The only change made by the plan in respect to the Bureau is that the performance of locomotive inspections is placed under the direction and control of the chairman, placing the Director of Locomotive Inspection on a par with the Chief of the Bureau of Motor Carriers in the Interstate Commerce Commission. The chairman in exercising direction over the Bureau would be subject to the Commission's policies, regulatory decisions, findings, and determinations to the same extent as in the case of the other bureaus of the Commission.
>
> The chairman could not change the regulations under which locomotive inspectors operate.

I should like to have the attention of the junior Senator from Connecticut to see whether he recalls this particular language, and in order to get his interpretation:

> The chairman could not change the regulations under which the locomotive inspectors operate.

In other words, the regulations for the protection of the lives and well-being of the locomotive engineer and the fireman. Is that the Senator's interpretation?

Mr. BENTON. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. BENTON. That is my interpretation. May I, in turn, ask the Senator from Minnesota, in line with the testimony, whether he recalls the fact brought out by Mr. Lawton that the status of hearing examiners will remain exactly as it is at the present time?

Mr. HUMPHREY. That is correct.

Mr. BENTON. Is it not a fair assumption that some of the persons who are opposing this reorganization plan have needlessly alarmed themselves about changes which are not contemplated or involved in any way in the proposal? The Senator from Minnesota has just cited one, and I have added another.

Mr. HUMPHREY. That is correct. I think it should also be pointed out that the bipartisan nature of the Commission is in no way interfered with or destroyed. All that is proposed is to spell out what is considered to be a sound recommendation pertaining to regulatory agencies, a recommendation which has been made after years of survey and study as to a reorganization which has already been written into statutory law by the Congress of the United States pertaining to other commissions, and a reorganization which only recently, in last year's plan No. 6, was accepted in good faith as doing what should be done. That was in 1949, in the first session of the Eighty-first Congress.

I hope that the Senate will approve this reorganization plan. I may say, in all candor, that reorganization plans are not a matter of life and death in connection with good government. Plans such as this improve the operation of the Government. Since we have big government, and since it becomes ever more complex and its problems become more intricate, it is important that we improve the machinery of government. It is not critical of what has gone on to suggest a change. When the Interstate Commerce Commission was established, it had very little work to do as compared with what it has to do at the present time. Its problems were not what they are today. More and more work is being placed upon the Commission.

Mr. BENTON. Mr. President, will the Senator yield further?

Mr. HUMPHREY. I yield.

Mr. BENTON. Is the Senator aware of the fact that, originally the Interstate Commerce Commission had only five commissioners?

Mr. HUMPHREY. Yes.

Mr. BENTON. Later the number was increased to seven, and later to eleven. Does the Senator agree that with the expansion of the Commission and the increase in the number of commissioners, the need becomes greater for administrative responsibility and for a responsible chairman?

Mr. HUMPHREY. It is my conviction that the observation made by the junior Senator from Connecticut is entirely sound. One argument I have heard is that if the President of the United States has the power to select or to appoint a chairman, there might possibly be some undue partisan influence exerted. I think it should be quite clear that the Commission already has a 6-to-5 partisan balance. It is an 11-man Commission, and I believe the proper interpretation of the political attitudes of the members of the Commission is that there are six Democrats and five Republicans. So the appointment of the chairman by the President is not going to alter that situation at all, unless it might be that the President would appoint a Republican member of the Commission as chairman, in which case I do not think there would be a protest from the minority side, and I do not think there would be one from this side of the aisle. I am confident that the President would appoint someone who could carry out properly his administrative duties. In the future there may be a man on the Commission who is a strong-willed man, and he might become chairman; and if he does become chairman he may dominate the Commission by the fact that he is the chairman. The record of the past is the only thing by which we can prophesy as to the future. The record of the past is that the character of the men on the Commission has been good.

No policy of the Commission is established by the chairman. All policies and all rules and regulations are established by statute or by the Commission itself. The responsibility of the chairman of the Commission is merely to expedite the carrying out of a particular policy which has been promulgated by the Commission.

It should also be pointed out, Mr. President, that the Commission chairman has only those powers which are delegated to him, and delegated powers can always be retrieved. If a delegated power is abused, it can be retrieved.

It is also to be assumed that the President of the United States will be ever vigilant as to the character and activities of the chairman of any regulatory commission. I think the record is quite clear that the chairman of responsible regulatory commissions have not abused their power. I think the record is quite clear, from reports to the Congress, that chairman of regulatory commissions who

are in charge of administrative responsibilities perform their duties with dispatch and efficiency.

Mr. BENTON. Mr. President, will the Senator further yield?

Mr. HUMPHREY. I yield.

Mr. BENTON. Was the junior Senator from Minnesota present when the junior Senator from Connecticut repeatedly asked witnesses at the hearings whether they could produce any evidence on the part of any of the other regulatory bodies which would substantiate the fears of future black-outs and future mishandling of power which were being attributed to the possible appointment of the Chairman of the Interstate Commerce Commission by the President? Does the Senator recall that no witness was able to deduce or bring forth any charges that could be substantiated against chairmen of other regulatory bodies?

Mr. HUMPHREY. It was not my privilege to be present on the day the Senator from Connecticut asked the questions to which he has referred, but the record has been made available to all members of the committee, and since some of us have some responsibility on the floor with reference to the plans, I recall that the Senator's questions were not answered by any kind of evidence that would indicate that there would be anything wrong in the future. As a matter of fact, the record was quite clear that no one could make such a prophecy except on mere conjecture.

Mr. BENTON. Is it not a perfectly sound assumption that the Presidents of the United States in their appointments to other regulatory commissions have conducted themselves on such a high level that there is no justifiable basis for fearing that there will suddenly be a different attitude in the case of the Interstate Commerce Commission?

Mr. HUMPHREY. I think the Senator's position is entirely correct, and I wish to thank him for the intimate knowledge he has of the reorganization plan and for his participation in the discussion of it. I think we are all indebted to the Senator from Connecticut for the interest he has demonstrated and for the knowledge of the subject which he has supplied.

Mr. BENTON. Mr. President, will the Senator further yield?

Mr. HUMPHREY. I yield to the Senator from Connecticut.

Mr. BENTON. The distinguished Senator from Rhode Island has just pointed out to me a quotation from former President Hoover on the subject, and I wonder if the Senator from Minnesota knows that former President Hoover said:

> There has been overalarm, I think, that the President intends or any President will intend to invade the legislative and judicial functions of these bodies. In my view, they are not, in their regulatory functions, a part of the executive branch.

Mr. HUMPHREY. I am very happy that the Senator brought that observation to our attention. I want to thank the Senator from Rhode Island [Mr. LEAHY] for his contribution to the minority report which was prepared, which sets forth what I consider to be a pretty sound basis of argument for the adoption of the plan.

Just a final word, Mr. President, and then I shall yield the floor, because I want the majority leader to conclude our argument in reference to this plan.

Mr. President, the time has come for the American people to make up their minds whether we shall have reorganization in government. It appears to me that there is throughout the country a great deal of general feeling for reorganization, and it appears to me that there is a good deal of general talk in the country about economy. One of the principles of government economy is to promote efficiency in government. It does not necessarily mean spending fewer dollars; it means spending well the dollars which are made available; it means getting the most out of every taxpayer's dollar that is made available to the Federal Government. Ultimately, of course, that means that there will be need for fewer dollars, because if we get the most out of each dollar we shall get a greater amount of service. I think all the evidence up to this time is that the reorganization plans which have been sent to the Congress by the President, in the main points, set forth plans which will promote efficiency and modern administration. I repeat, that big Government cannot be handled by antiquated administrative techniques and tools. This is a twentieth century Government, and we cannot get along with nineteenth century mechanism. We must improve the executive branch of the Government insofar as the machinery of government is concerned. If we do not do that, we may very well thwart the public will by maladministration or by poor administration, not because the heads of Government agencies do not want to do a good job, but simply because there is confusion confounded.

During the war a great many businessmen came to Washington. They represented large business corporations, Mr. President. All of them had one general complaint to make. The complaint was not that they did not have enough work. In fact, they never worked harder in their lives. The complaint was not that they did not have all sorts of equipment made available to them. Mr. President, their complaint was that there was no one place that they could go to and speak to one person who had authority. The authority was all over the lot. The administrative policy was never under the control of one individual in any one agency, but was shared by a half dozen or more individuals. These practical businessmen, many of them who served on the task force, or were advisers to the Hoover Commission, came to the conclusion that if there was one thing the Government needed in its agencies it was modernization and streamlining of administrative responsibility. It is from that great backlog of experience that these reports have come. I think this reorganization plan represents a creditable improvement in the executive branch of the Government.

Mr. President, I yield the floor to the Senator from Arkansas if he desires it.

Mr. McCLELLAN. Mr. President, I yield 15 minutes to the Senator from Ohio.

Mr. BRICKER. Mr. President, I rise to speak in opposition to the plan submitted and in support of the resolution of the Committee on Expenditures in the Executive Departments. By a vote of 6 to 5 the committee reported adversely the reorganization plan dealing with the Interstate Commerce Commission. Great impetus has been given to reorganization plans because of the support throughout the country of what has become known as the Hoover Commission report. The Hoover Commission was created by act of the Eightieth Congress. As chairman of the subcommittee, I had some responsibility in the final approval of the resolution offered by the Senator from Massachusetts [Mr. LODGE] and the Member of the House of Representatives from Ohio, Mr. CLARENCE J. BROWN. I wish that it might be possible to go along with the reorganization plans as submitted, but I wish even more that the plans had followed the recommendations of the Hoover Commission. The impetus given to the recommendations of the Hoover Commission report is due, in part, to the charges of inefficiency on the part of many of the independent agencies, administrative bodies of government, and the delays which have been inherent in the processes of adjudication and administration of their responsibilities.

It is also due to the educational program which has been carried on throughout the country to the effect that the adoption of the Hoover Commission report would mean a saving of taxpayers' dollars. It was on that premise that we received here a short time ago, delivered to the Vice President of the United States, the signatures of hundreds of thousands—and perhaps reaching into the millions—of members of junior chambers of commerce in the United States. They wanted money saved.

Mr. President, Reorganization Plan No. 7, submitted by the President and affecting the Interstate Commerce Commission, does not amount to the saving of 1 penny. Neither do the other three plans, which are comparable to the reorganization plan of the Interstate Commerce Commission, save 1 penny of taxpayers' money. They are submitted wholly on the ground and with the argument that they will promote efficiency in government. In my judgment, they will result in a more cumbersome administrative set-up.

Since 1887 the independent agencies of government, known as administrative boards and bureaus, have been operating in the public interest. Under our constitutional system, there was originally a clear division of the powers of government into executive, legislative, and judicial. As business became more complex and social problems became more demanding, the Congress of the United States in its wisdom created first, in 1887, the Interstate Commerce Commission, which I believe met a great public need, and it has rendered a constructive

public service throughout the whole period of its existence. In subsequent years other commissions were established to meet needs in other fields. The Federal Communications Commission and the Federal Trade Commission were established to act in fields outside that of transportation, which was the prime responsibility of the Interstate Commerce Commission.

Around the decisions, judgments, and actions of each one of these commissions there has been built a great body of administrative law. We have bar associations and subdivisions of bar associations which are composed of members of the bar who are practicing sometimes exclusively and many times mainly before the various commissions and boards. Generally, I think the Federal commissions have met the approval of the public served by them.

I know of no group in the transportation field which is supporting the reorganization plan as submitted. I likewise think that the bar, labor organizations, and transportation companies generally would support it if the plan had followed the recommendation of the Hoover Commission and would bring about any real efficiency and economy in administration.

This is not a new question. It was in 1934 that the then President of the United States in what is now known as the Humphrey case attempted to remove a member of the Federal Trade Commission by the name of Humphrey. The excuse for removing him, as given by the President, was: "This member does not go along with my thinking, and he does not agree with what I think ought to be the operating functions of the Federal Trade Commission." The case was taken to the Supreme Court of the United States. In a unanimous decision the Supreme Court held that it was without the power of the President of the United States to remove a member of such an administrative agency, because the administrative boards of this character are arms of Congress which carry on a quasi-legislative and quasi-judicial function of government.

Their function is to meet the complex industrial and business problems of the time. As a result of that decision, they were left as administrative arms of the Congress of the United States to carry out the details of legislative authority granted in the act creating them and taken out of the power of the Chief Executive of the United States, who, had he been successful in the removal, would have been able to bend to his will these so-called arms of the legislative branch of the Government.

The plans submitted are merely efforts to accomplish the same thing by an indirect move, in another way. Plans 7, 8, 9, and 11, submitted for our approval or disapproval, by giving the President the power of appointment of the chairmen of the boards, arms of the Congress, actually accomplish what the President attempted to accomplish in 1934, and which was declared outside his authority by the Supreme Court of the United States.

Indirectly, then, these four reorganization plans to which I wish to address myself now actually transfer from the legislative authority, and place out of the reach of the power of the Congress of the United States, these commissions, so long as they continue to serve, and turn them over to the direct will of the President of the United States, by the appointment of the chairmen, and the delegation to the chairmen of additional powers.

I oppose these plans; I oppose all of them. We cannot separate them, because the same principle of power on the part of the Executive runs through every one of the reorganization plans. They are a part of the whole program and policy of those who believe in subordinating the legislative branch to the will of the Executive. It is a part of the whole, over-all policy of the totalitarian philosophy of government. It may not be a long step, but it is a step directly in that direction.

Mr. LUCAS. Mr. President——

The PRESIDING OFFICER (Mr. KEFAUVER in the chair). Does the Senator from Ohio yield to the Senator from Illinois?

Mr. BRICKER. I yield.

Mr. LUCAS. There is no difference in principle, so far as the transfer of power in any one of the agencies is concerned, as I understand the Senator from Ohio.

Mr. BRICKER. That is correct; there is no difference in the underlying philosophy of government, so far as the four plans are concerned.

Mr. LUCAS. In other words, if we are going to defeat one, we should defeat all. If we are to let them all live, we should not kill any one of them.

Mr. BRICKER. That is a logical conclusion, and I for one am not able to understand the various votes in the Committee on Expenditures in the Executive Departments, whereby one plan was rejected and others were approved, because the same principle is involved in each one of the plans, as has been suggested by the majority leader.

In the first place, they are contrary to the recommendations of the Hoover Commission.

In the second place, they violate the policy of the Hoover Commission not to alter matters of substantive law by repealing essential features of the Administrative Procedures Act.

Third, they are beyond the authority which Congress intended to confer by the Reorganization Act of 1949.

Fourth, they undermine the independence of regulatory commissions, which has been maintained ever since the establishment of the Interstate Commerce Commission in 1887.

The Hoover Commission on Organization of the Executive Branch was established, pursuant to Public Law 162 of the Eightieth Congress. The title of the Commission is somewhat misleading, because it was given authority to investigate independent establishments, as well as components of the executive branch. But it gave but slight attention to the independent administrative agencies, because only 17 pages of the report of the Hoover Commission was devoted to all of them—some 11, as I remember—so that there was not a great deal of attention given, and not any recommendations made as to their reorganization. The Hoover Commission was primarily dealing with the executive branch of the Government, and never at any time contemplated the transfer of these legislative arms over to the domination or the control of the executive.

It is obvious that the Hoover Commission did not subject the independent regulatory commissions to the detailed study which it gave to the departments and agencies of the executive branch of the Government. The Hoover report deals with these regulatory commissions, as I have said, in only 17 pages of its total report, which includes many volumes. The Hoover Commission should not be criticized for the summary treatment of these regulatory agencies, because undoubtedly the Commission realized that Congress had already established the basic pattern of organization in the Administrative Procedures Act of 1947, and subsequent legislation amending that act.

More important, however, was the realization by the Hoover Commission that the independent regulatory agencies were almost exclusively concerned with quasi-judicial and quasi-legislative functions. The Commission concluded, quite properly, that the performance of these functions was beyond the scope of its investigation. In its report it said about these bodies:

> In this report the Commission on Organization has confined itself to the discussion of the organizational problems of these agencies and does not deal with their quasi-judicial or quasi-legislative functions.

Yet the plans on which we are voting this afternoon, and on which we will vote in the days immediately ahead, definitely do change the very character of the boards and transfer control of the quasi-legislative and quasi-judicial functions of the administrative boards to the executive branch of the Government.

Mr. President, of the 12 recommendations which affect the regulatory commissions, 11 deal with tenure, salaries, suggested studies, delegation of authority by the Commission, and the transfer of executive functions which the Hoover Commission found could be carried out more efficiently by some executive department or agency.

Reorganization Plans 7, 8, 9, and 11—and we cannot discuss them separately—are all based on the Commission's recommendation No. 1 in its report on regulatory commissions, and in that report is this statement:

> We recommend that all administrative responsibility be vested in the Chairman of the Commission.

Mr. President, that recommendation was applied generally to the nine regulatory commissions. The first question to be answered is, What did the Hoover Commission mean by the words "administrative responsibility"?

The PRESIDING OFFICER. The time of the Senator from Ohio has expired.

Mr. McCLELLAN. I yield the Senator from Ohio 5 minutes more.

The PRESIDING OFFICER. The Senator from Ohio is recognized for five more minutes.

Mr. BRICKER. There is so much of vital importance involved that I should like to be able to discuss the plans more at length, but will not be able to do so.

Let me conclude by saying that what is proposed would mean the repeal of the Administrative Procedure Act, and that it is not in compliance with the President's power under the Reorganization Act of 1949. It is a violation of the whole concept of the separation of the powers of government into the executive, legislative, and judicial. It disrupts a history of more than half a century of successful service to the American people and to American business generally. It is not supported by any organization that is interested in the detailed administration, the hearings, and the decisions of these administrative boards.

Mr. President, the necessity for preserving the independence of the regulatory commissions becomes more and more important day by day when we realize that some of them, within the experience of some of those now in the Senate, have gone contrary to the judgment and the majority vote of the Congress of the United States, and their decisions have been sustained by the Supreme Court of the United States, thereby violating the intent of the Congress, and going beyond the powers delegated to them.

That being so, it should be realized that to place them in the hands of the Chief Executive would mean a concentration of power inimical to the best interests and liberties of the American people.

Mr. President, the adoption of these plans would be a long step toward authoritarian government, desired by those who wish to wield power over others, and they are justly feared by all those who desire to be free to continue their business and to live their own lives.

The proposal is a part of a well-conceived program to subordinate Congress to the will of the Executive, and a planned program to take the policy-making power of the Government out of the hands of the elected representatives of the people, and turn it over to appointed bureaucrats, who already have assumed more authority than the Congress ever intended to give them.

Mr. President, these reorganization plans are dangerous. They threaten the liberties of the American people. They mean a further concentration of power in the Executive, and a further limiting of power of the Congress of the United States.

Mr. President, I hope that the plans will be turned down, and that the pending resolution will be adopted.

Mr. LUCAS. Mr. President, if the Congress of the United States follows the arguments which have been made by the able junior Senator from Ohio [Mr. BRICKER] there will never be any reorganization of Government to the end that efficiency may be promoted and economy brought about in the various branches of the executive agencies of Government.

I undertake to say that the heart of the Hoover recommendations for efficiency is the concentration of administrative functions in the heads of agencies or commissions. In the case of the regulatory commissions this means the chairman of the commission. Unless the responsibility for the day-to-day administration of the executive agencies of the Government is placed upon some one individual in these respective agencies which have been created by Congress, Senators can be as certain as that we are debating this issue today, that there will never be any real and effective reorganization of the executive agencies of Government.

Mr. TOBEY. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. CHAPMAN in the chair). Does the Senator from Illinois yield to the Senator from New Hampshire?

Mr. LUCAS. I yield.

Mr. TOBEY. The question in my mind, and it is a very sincere and conscientious one, is this: I happen to be one of those who wanted to go all along the line with the Hoover recommendations. Now we are confronted with reorganization plans which come to us from the administration. In the judgment and belief of sincere men, some of the reorganization plans which have come to us from the administration go far beyond the import and spirit and suggestions of the Roover recommendations. In other words, they would bring about a centralization of power which we believe would be dangerous. That applies particularly to the four bureaus which have been mentioned, and which are dealt with by the four resolutions reported by the Committee on Interstate and Foreign Commerce, that is, the Interstate Commerce Commission, the Federal Trade Commission, Federal Power Commission, and the Federal Communications Commission.

We are now about to vote on one of the resolutions. Faced with the vote, and perplexed by various difficulties, I ask this question of the Senator: In the judgment of honest men, when they see such conditions obtaining, with the reorganization plans submitted to us by the administration going far beyond the recommendations of the Hoover Commission, should it not be the policy of those of us who feel that way to vote in favor of the resolutions of disapproval, to kill the plans as suggested, return them so that they may be reviewed consistently with the Hoover plan and then come back to us as children of the Hoover plan rather than as children of the minds of men in the Government bureaus in Washington?

Mr. LUCAS. Mr. President, I will answer my able friend from New Hampshire in this way: I call his attention to the recommendations numbered 1 and 6 in the volume on Regulatory Commissions, prepared by the Hoover Commission. This is a general recommendation it has made for all regulatory commissions: Recommendation No. 1:

> We recommend that all administrative responsibility be vested in the Chairman of the Commission.

Recommendation No. 6:

> The Commission therefore recommends that the statutes be amended so as to permit the commissions to delegate routine, preliminary, and less important work to members of the staffs under their supervision.

One provision of this reorganization plan transfers the function of the commission with respect to choosing a chairman from the commission membership to the President. This was not recommended by the Commission, but it was recommended by the task force on regulatory commissions.

In the Task Force Report on page 86 this statement is made:

> We think the most effective way to achieve this objective is to have the chairman appointed by the President.

This appeared in the section dealing with the Interstate Commerce Commission.

Furthermore, I call attention to what the Citizens Committee for the Hoover Report said about what the Hoover Commission intended with respect to this very thing. I shall read it. It is a statement which was released by the Citizens Committee for the Hoover Report on Friday, May 12:

> Dr. Robert L. Johnson, chairman of the Citizens Committee for the Hoover Report, today called on the Nation's 150,000,000 "silent citizens" to get behind President Truman's 20 remaining Government reorganization plans.

Who are the board of directors of the Citizens Committee for the Hoover Report, which is stating what ought to be done with respect to the Hoover recommendations? Members of the board of directors included Warren R. Austin, Neal Don Becker, Hon. James F. Byrnes, Dr. William E. Cotter—Council for Union of Carbide and Carbon Chemicals; Hon. Colgate A. Darden, president of the University of Virginia; Hon. Chester C. Davis, president of the Federal Reserve Bank of St. Louis; Gen. Charles G. Dawes; Maj. Gen. William J. Donovan; Hon. Charles Edison, head, Thomas A. Edison Corp. of New York; Hon. James A. Farley; Mr. Henry Ford II; Mr. Clarence Francis, chairman of the board of General Foods Corp.; Hon. John N. Garner, former Vice President from Texas; Mr. Albert S. Goss; Mr. William Green, A. F. of L.; Mr. Philip Murray, president of the CIO, and so on and so on. Some of the most prominent men in this country are members of the board of the citizens committee for the Hoover Report. Listen to what they say:

> One of the 21 Truman proposals, Plan No. 12, to reorganize the National Labor Relations Board, was defeated in the Senate yesterday. Dr. Johnson said the Senate action was not a true test of the over-all reorganization program since Plan No. 12 contained provisions beyond those recommended by the Hoover Commission.
>
> Dr. Johnson, who is also president of Temple University, warned that the next 2 weeks will vitally affect the success or failure of the entire reorganization program.
>
> "Unless more than 80 percent of the President's plans are enacted this session of Congress," he said, "the drive for better government will be slowed down.
>
> "These plans all have the unqualified support of the citizens committee, 45 State citizens committees, more than 300 local citi-

zens committees, and hundreds of thousands of public-spirited citizens who want more efficient and economical government," he said.

Dr. Johnson pointed out that disapproval resolutions are presently before Congress to reject 11 of the remaining 20 plans.

Savings from the enactment of the President's reorganization plans would not come "today or tomorrow," Dr. Johnson said, but that "eventual savings are a certitude.

"It is virtually impossible to run the Federal Government economically when every department bristles with autonomous bureaus, which are not responsible to the department heads who supervise them."

That is the very essence of this entire thing, Mr. President. In the various bureaus authority cannot be delegated to every Tom, Dick and Harry if we expect to get efficiency in Government from the reorganization standpoint. Such efficiency cannot be had unless the power and authority is lodged in someone, and that someone is made responsible. Authority should be given to an efficient administrator—such an administrator as, for example, Louis Johnson, and let an individual of that type do the work which is necessary to be done.

I continue to read:

Dr. Johnson said that only the President has the direct authority over these semi-independent bureaus. "As a practical matter, the President is unable personally to direct several hundred of these floating ribs of Government," he added.

"Now is the time for 150,000,000 silent citizens to speak out for better government at a better price, or they will never get it."

Mr. TOBEY. Mr. President, will the Senator yield to me for a moment?

Mr. LUCAS. I yield.

Mr. TOBEY. I thank the Senator from Illinois. The point I make is that those of us who have sincerely committed ourselves to supporting the Hoover plan, and who want to do that thing, and who have gone before our people and told them we are going to do so, now find ourselves in an anomalous position. We find by advices received from top men connected with the Hoover plan—I will not mention any name, but I talked with one of them over the telephone, a man who was near the top, and he assures very definitely, without mentioning any names, that in his judgment the reorganization plans do go far beyond what was contemplated and what was intended by the Hoover Commission. Therefore, as an individual Senator, I say that when I vote in favor of the resolution to disapprove the pending reorganization plan, it will be with the distinct understanding that the plan should go back and be clearly reviewed so as to make sure it squares with the Hoover Commission's recommendations. What we are afraid of is centralization of power of commissions, against the people's interest, and in such a way as to contravene the legislation which puts them under the watchful eye of standing committees of the Senate.

Mr. LUCAS. Mr. President, my time is limited. I appreciate the Senator's statement.

Mr. TOBEY. They are words of wisdom.

Mr. LUCAS. I understand the Senator's position. He brings to the Senate words of wisdom whenever he speaks. I simply have no time, however, to listen to all he has to say today.

Mr. TOBEY. That is an excuse, but not a reason. Go ahead.

Mr. LUCAS. I do not have much time, I will say to my friend.

The PRESIDING OFFICER. The Senator from Illinois declines to yield.

Mr. LUCAS. Mr. President, I wish to read another statement which Dr. Johnson made:

As former President Hoover told the Sales Executives Club of New York on Tuesday, violent campaigns are being waged against many Presidential plans: "Practically every single item in the program has invariably met with opposition of some vested official, or it has disturbed some vested habit and offended some organized minority." And, he added, "It has aroused paid propagandists. All these vested officials, vested habits, organized propaganda groups are in favor of every item of reorganization except that which affects the bureau or the activity in which they are specially interested."

Mr. President, at that point Dr. Johnson was quoting the statement of Herbert Hoover himself.

I do not believe that Herbert Hoover would make a statement of that sort if he did not believe that the reorganization plans which have been sent to us by the President of the United States are at least in the spirit of what the Hoover Commission was attempting to do when it made its recommendations.

The sole question now before the Senate is whether we are going to have reorganization in government or whether we are not going to have reorganization in government.

The Senator from New Hampshire has spoken of sending back these plans for review. If that is done, that will be the end of them. So surely as the Senate kills this plan and kills the other three plans which are in the same category with this one, we in the Senate can rest assured that there will be no reorganization in the Government this year and there will be none for a long, long time to come.

Mr. President, we have come a long way from the time when Theodore Roosevelt, then President of the United States, attempted to reorganize the Government. This is the first time the Congress has ever in reality given the President an opportunity to submit reorganization plans, and now these plans come to us from the President. We have a grave responsibility to approve them.

When we consider the fine type of persons who represent the Citizens' Committee for the Hoover Report, who watch these plans day after day, it is obvious that their views carry weight. If now we do not do anything about these reorganization plans except kill all of them, we can kiss reorganization goodbye. If that happens, the people of the United States will be disappointed.

As I said a moment ago in a colloquy with the Senator from Connecticut, I have never received so much mail regarding any one proposition as I have received from my constituents in Illinois in regard to the reorganization plans. Every chamber of commerce in the State of Illinois has asked me to go "all out" for them. Thousands of persons who are interested in efficiency and economy in Government have asked that we support these plans.

Many persons in my State who have followed the activities of the Johnson committee, which is composed of the distinguished and able citizens whose names are on the list which is before us today, believe that the members of that committee know what they are talking about when they write a letter of this kind and ask the Senate of the United States to go along with the reorganization plans which have been submitted by the President of the United States.

Mr. President, I am not going back to Illinois to face the chambers of commerce there and say to them that I voted against Reorganization Plan No. 7 or the other reorganization plans dealing with four vital agencies of Government. All of these agencies have persons who are ready to speak up for them, just as former President Hoover has said. Practically every item in the program has invariably met with the opposition of some vested official or has disturbed some vested habit and offended some organized minority.

Certainly I am not going to go back to Illinois and tell my constituents that I voted against this kind of plan. I sincerely hope that when the vote is taken on the resolution which has been submitted by the distinguished Senator from Colorado, the resolution of disapproval of the plan will be rejected.

Mr. President, let me inquire how many minutes I have remaining.

The PRESIDING OFFICER (Mr. CHAPMAN in the chair). The Senator from Illinois has 7 minutes remaining.

Mr. LUCAS. Mr. President, let me conclude by informing the Senate what Reorganization Plan No. 7 will do, according to my opinion.

In the first place, it will vest in the Chairman of the Commission the following executive functions:

First. The appointment and supervision of personnel.

Why should not the Chairman of the Commission have the power to say who shall be the personnel in that particular agency of Government? Would any Senator want to delegate to some board around him the power to appoint the personnel in his own office?

Second. The distribution of business among the personnel or administrative units.

Is it not properly the duty of the Chairman of the Commission to do that very thing, and to hold all individuals serving in the agency responsible for the work assigned to them? It seems to me that the only way by which we shall obtain efficiency in government is by authorizing the Chairman of the Commission to distribute the business of the Commission among the personnel or administrative units in that agency.

Third. The expenditure of funds, subject to general policies of statutes.

Next, Reorganization Plan No. 7 provides:

First. That the Chairman shall appoint the heads of major administrative units, with the approval of the Commission.

In other words, the approval of the Commission must be obtained by the Chairman in such matters before any head of a major administrative unit can be appointed.

Second. That regularly employed personnel in the immediate offices of Commissioners, other than that of the Chairman, are not affected by the proposed reorganization plan.

Third. That the reviewing of budget estimates and the distribution of appropriated funds shall be reserved to the Commission.

In other words, Mr. President, the important duty of reviewing the budget estimates and distributing the appropriated funds is to be reserved to the Commission itself, rather than to the Chairman of the Commission.

Fourth. That the Director of Locomotive Inspection and two assistant directors shall perform their functions subject to the direction of the Chairman.

Mr. President, that is where the great trouble has arisen. My friends in the railroad world are seriously objecting to this reorganization plan. However, I do not believe their fears are well grounded. I think that over a long period of time it will be proved conclusively that those who are vitally interested in this matter will not be seriously injured or jeopardized if this plan becomes the law.

This plan also authorizes the Chairman of the Commission to delegate to any officer, employee, or administrative unit any function.

The plan also transfers from the Commissioners to the President the function of the Commission with respect to choosing a Chairman.

Mr. President, I wish to conclude by repeating—it would be well to repeat it again and again—that the fundamental and basic principle laid down by the Hoover Commission, in its No. 1 recommendation was:

> We recommend that all administrative responsibility be vested in the Chairman of the Commission.

Unless we do vest that responsibility in the Chairman, and let the President find and appoint the kind of man who will do that job—a man who has administrative and executive ability, and upon whom the President may lay the responsibility, and to whom the President may say, "Mr. Jones, this is your responsibility, and you cannot shift it to this or that agency or branch of your commission, but it is your responsibility"—we shall not gain the efficiency and economy in government which we seek. It is only through that kind of an organization that we shall ever obtain increased efficiency or economy in the Federal Government.

Mr. McCLELLAN. Mr. President——

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUMPHREY. Mr. President, will the Senator from Arkansas yield merely long enough to permit me to propound a parliamentary inquiry?

Mr. McCLELLAN. I yield.

Mr. HUMPHREY. Mr. President, I wish to inquire whether any time remains to the proponents of the plan.

The PRESIDING OFFICER. The Senator from Minnesota has 4 minutes remaining.

The Senator from Arkansas has 20 minutes remaining.

Mr. McCLELLAN. Mr. President, does the Senator from Minnesota wish to use now any of his time?

Mr. HUMPHREY. No; I was simply inquiring whether those on our side of the question have any time remaining.

Mr. McCLELLAN. Very well.

Mr. President, I do not wish to speak at length on the pending resolution.

Earlier this afternoon, when the able Senator from Connecticut was expressing his loneliness, in a sense, by virtue of his being a junior Member of this body and having a heavy responsibility fall upon him with respect to discussing this plan and supporting it and probably carrying the burden of the debate in favor of the plan, I, too, felt the responsibility which rests upon me, as chairman of the Committee on Expenditures in the Executive Departments, which has jurisdiction of these proposals, and to which these reorganization plans were referred; and I also feel responsibility in this matter by reason of the fact that I served as a member of the Hoover Commission, and am anxious to see a proper reorganization of the executive branch of the Government.

Mr. President, frequently the task force of the Hoover Commission is quoted in support of some plan or some phase of some plan which is submitted to us, and which we have under consideration. Yet the task force's recommendations and report are not the Hoover Commission's recommendations and report. The task force simply made studies; and the recommendations and report of the task force were made by those who conducted those studies, who made those recommendations to the Commission, but the Hoover Commission rejected many of those recommendations. So, when the report of the task force is quoted, it should be remembered that that is not necessarily the decision and recommendations of the Commission which was constituted to make this study and to make the recommendations respecting reorganization plans. We must not let anyone confuse us by quoting what some task force may have said.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. McCLELLAN. I yield briefly for a question.

Mr. LONG. As a matter of fact, is not the distinguished senior Senator from Arkansas who presently has the floor actually a member of the Hoover Commission which made this study?

Mr. McCLELLAN. The Commission is no longer in existence. I served as a member of it, that is true. What I want to emphasize, Mr. President, is that we come here with these plans, and we go back and go through the task force reports and begin quoting them in support of some plan. Mr. President, you will find that the test is to read the words of the Commission, not the words of the task force. We hold committee hearings, and someone comes before the committee in support of a bill and testifies at length on the subject. The very provision that the witness who supports the bill may testify, which is put so strongly, may be deleted when the committee acts on it, or when the bill reaches the floor of the Senate. The Hoover Commission reports and the task force reports must be weighed in the light of this situation. Because the Hoover Commission deleted or rejected much that its task forces recommended.

I may say that in my humble opinion, having served on that Commission, it was never the intent of the Commission, by any language it used anywhere or at any time, to have these regulatory bodies tampered with through a reorganization which goes to the extent of having any effect, influence, control, supervision, or direction over their quasi-judicial or quasi-legislative functions. I am sure the Commission never had any such purpose, whatever language one may find in the report.

Mr. President, surely I should like to see reorganization. I, too, have received a great many letters urging adoption of the Hoover Commission report. But let us bear this in mind, that in what has been said by Citizens' Committee for the Hoover Report, which has been organized to carry on this program, to educate the people of the country and to acquaint them with this reorganization plan, and to build up support for it, there has been no differentiation as to proper and effective reorganization. The general program, the general theme, has been to get reorganization, with the idea that the Government will thereby save from $3,000,000,000 to $5,000,000,000 a year. I dare say there is not a Senator on the floor now, and there will not be one here, who can pick up one of these plans and point to one dollar's saving in it. The whole theme regarding saving is theoretical. It is not laid down in practical evidence by which it can be properly understood.

What is wrong with this agency, the ICC, that it must be reorganized? Mr. President, if you search the record of the testimony you will not find one statement of inefficiency, you will not find any proof of lack of economy. What is the purpose of reorganizing it? All one needs to do is to read the plan itself, to find that the whole effect of it is to converge power. It is not to promote efficiency, it is not to reorganize in order to effect economies, but it is to concentrate more and more power. Where? Under the direction and control and authority of the Chief Executive of this Nation. Let us see whether I am correct about it.

We are placing great emphasis here, as we consider these reorganization plans, on this Citizens' Committee for the Hoover Report. Let us turn to the evidence. We had a witness who testified for this plan who said he was representing the citizen's committee, that he was testifying on behalf of the citizen's committee for this very plan, and in opposition to the resolution. Turning to page 130 of the hearings on Reorganization Plans 7, 8, 9, and 11 of 1950, we find that Mr. Leventhal, who testified for this plan as a representative of the

citizens' committee, was asked this question:

Who makes the determination for the Citizen's Committee as to what it shall support when they come down hear, etc.

His answer was that he did not know. I said the Congress was entitled to know. I asked:

Do they have an executive board?

He did not know. Read it, Mr. President. He could not tell. He said he would try to get the information. A few days later I received a letter from Mr. Robert L. Johnson, which will be found on page 138 of the hearings. From his letter we find out who makes the decisions. Mr. President, listen to this. After a considerable amount of rehashing, we here get down to the meat of it. Mr. Johnson said:

The committee's policies are determined by its board of directors in accordance with the charter and bylaws under the laws of the State of New York in which it was incorporated. At the last meeting of the board of directors, I, as chairman, was authorized to act as spokesman for the citizen's committee and to consult with members of the Hoover Commission and its task forces on matters on which special information was required. I was also authorized to undertake two principal steps with regard to legislative measures and Presidential reorganization plans—

Mr. President, listen to this. He is authorized, he is speaking for the entire Commission.

First, to have studies made by the committee's staff in order to determine factually the extent to which such measures and plans conform with or differ from the majority recommendations of the Commission on Organization of the Executive Branch of the Government; and, second, to endorse those matters which are, after such studies, so determined to be generally in accord with the recommendations of that Commission.

The entire power of that citizens' committee has been vested in one man, who makes the decisions. One man is selecting the representatives of that committee to come before the Senate committees to testify in its name. No board or subcommittee of the citizens committee passes upon and determines the policies.

I think we are entitled to something a little better than that, if we are going out to propagandize the country—and I believe in it; I believe every citizen should be made as fully acquainted with the Hoover Commission's recommendations as possible. But I know we talk about receiving letters. I know that many persons write to us who know nothing about the subject, who know nothing of what is in the plans, or what their effect will be. They have not studied the plans. They are simply thinking in terms of a great sprawling Government which ought to be reorganized, that it ought to be reorganized to put into effect the general objectives of the reorganization act. The objectives are greater efficiency and greater economy in Government. The writers of these letters have been thinking in terms of the statements which have been made by the Chairman of the Hoover Commission—with which I do not agree—that if all the Hoover Commission's recommendations were adopted, there would be effected a saving of from $3,000,000,000 to $5,000,000,000 a year. I have never expected so great a saving from it, and, if the plans which come to the Senate are an indication or an example of the economy that is going to result from the reorganization, then I think the entire $3,000,000,000 or $5,000,000,000 will evaporate.

Speaking of this particular plan—and I must hurry on—a plan which deals with the greatest transportation system in the world, that regulatory body, regulating all our commerce—and, Mr. President, I do not have time to refer to the testimony, but representatives of management, of ownership, of the transportation systems testified.

Not only that, Mr. President, but representatives of labor testified. One representative of labor listed the number of organizations he represented. He stated that practically all of the labor organizations within the railroad systems were against it, that labor in transportation is against it, and management in transportation is against it. Patrons of transportation facilities are opposed to it.

What is the reason for that opposition? Because, Mr. President, they have respect for the present independent agency which Congress has created as an agency of Congress. They do not want executive power over it, any more than they want Congress to control it. They want it to be independent.

What is to be gained by this reorganization plan? Let us go back to the citizens' committee representative. Let us see what he said is to be gained. I read the concluding paragraph of his prepared statement before the committee. Listen to this: I quote:

In addition, designation of the chairman by the President is likely to improve channels of communication with the Executive.

Why do we need to improve channels of communication from the Commission to the President? Why do we need to improve channels of communication if the Commission is to be independent, to act independently in making judicial decisions on the basis of facts developed before it?

The witness went on to say:

Commissioners, although independent—

Listen to this—

do not live in a vacuum.

Does that have any significance, Mr. President? He went on to say:

They may and rightly should give consideration to the President's views on national policies without in any way being bound by those views.

What does that mean? Unless they expect the Chief Executive's policies to have some influence, unless they expect them to be effective, although not binding, why is it necessary?

Why, Mr. President, we may just as well have the Committee on Interstate and Foreign Commerce influence the Commission. We want to keep it independent. It has been said that it will still be independent if the President has the power to appoint the Chairman. Will it? Suppose we delegate to the Chairman the enumerated powers in this plan, how long does the Chairman serve? He serves at the will of the President. What does "will" mean? At the President's pleasure. How long would he be pleased? He would not be pleased very long if the Chairman did not carry out his policies. We know that.

We may as well have the test right now, Mr. President. Are we going to reorganize for efficiency and economy, or are we going to reorganize for the concentration of more and more power in a centralized head of the Government? That is the test. Whether we vote for or against these plans, Mr. President, means something.

Some question has been raised about the committee being inconsistent. My vote has not been inconsistent. I have voted against controls over regulatory agencies, and I intend to continue to vote against them. I do not believe these agencies, which are really a branch of the legislative body itself, should be subjected to any undue influence from any source in the performance of their functions. Let us keep them independent. There is no complaint against them. Who has complained? I have not heard of any complaint, and there is none in the record. There are plenty of places in Government to reorganize, where economies can be effected and where some efficiency might be gained. Let us not go into these agencies which are serving well, and with no complaint against them. The only thing in this package, Mr. President, is more and more power. If it means anything at all, that is all there is in it. We can accept it or we can reject it. I agree with the majority leader that this is a test. Let us settle the question now, and serve notice that this body wants reorganization for economy and efficiency, and not for the purpose of permitting the executive branch to grab more and more power, particularly with respect to regulatory agencies which are actually servants of the Congress itself. When that is done, Mr. President, it is not reorganization; it is concentration of power.

Let us make the test this afternoon. Let these plans go back. Let the President send plans which in some measure conform to the Hoover recommendations. Then we can try to do an effective and successful job of reorganizing toward the general objectives of the Reorganization Act.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. McCLELLAN. I yield.

Mr. LONG. Does not the Senator's argument boil down to the fact that the Hoover Commission never recommended that the President be given authority to designate the Chairman, and if he does designate the Chairman, the Chairman will be compelled to follow the President's views, while, if the Commission designates its own Chairman, he will have to follow the Commission's views?

Mr. McCLELLAN. The Commission has power to submit to the Chairman any task it wants him to perform, by a simple resolution. Once it delegates it to the Chairman it can withdraw it if the duty is not properly performed. If the President appointed the Chairman,

the Commission would be helpless if it did not perform its duties in accordance with the wishes of the President.

Mr. President, this plan should be overwhelmingly defeated. I hope it will be.

Mr. HUMPHREY. Mr. President, I desire to make a brief comment. If the position of the Senator from Arkansas is to be followed, then I suggest that Reorganization Plan No. 6, which was adopted last year, be repealed, because that plan, which pertained to the Maritime Commission, is identical with the reorganization plan which is now before the Senate pertaining to the Interstate Commerce Commission.

Furthermore, I suggest that the observations in the general recommendations on regulatory commissions made by the Hoover Commission fall within the objectives and purposes of Reorganization Plan No. 7. In fact, Reorganization Plan No. 7 is in strict accordance with the recommendations of the Hoover Commission and its task force on regulatory agencies. The Senator from Minnesota pointed out that fact, and it was pointed out and well documented by the majority leader. The majority leader pointed out the recommendations of the Citizens' Committee report, as well as the recommendations of the head of the Hoover Commission, the former President of the United States, Mr. Herbert Hoover.

I hope the Senate will approve this plan. It is perfectly obvious that every time a reorganization plan comes here it will be met with a frontal assault, with testimony on the part of interested parties. It is perfectly understandable that interested parties would like to leave things as they are.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. LUCAS. In addition to what the Senator from Minnesota has said, the able Senator from Connecticut [Mr. BENTON] pointed out this afternoon, when there were only three Senators on the floor, that the Congress of the United States on six different occasions has passed laws delegating to the chairmen of various commissions the same kind of power which is asked for in this reorganization plan. In other words, Congress cannot consistently take the position of the proponents of the resolution in view of the laws it has enacted. As the Senator from Connecticut has pointed out, on six different occasions Congress has given chairmen of boards the power which the President seeks in this Reorganization Plan No. 7.

Mr. JOHNSON of Colorado and other Senators rose.

Mr. HUMPHREY. My time has about expired, and I wish to conclude my argument. The general policy of the chairman is established by the vote of the regulatory commission. The powers of delegation are made by the members of the regulatory commission. Under the reorganization plans, the chairman of a commission has only those powers which are inherent in the law and which have been delegated by the members of the commission. I hope the Senate will approve the plan and reject the resolution.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Hill	Malone
Benton	Hoey	Martin
Brewster	Holland	Maybank
Bricker	Humphrey	Mundt
Bridges	Hunt	Myers
Butler	Ives	Neely
Byrd	Jenner	Robertson
Cain	Johnson, Colo.	Russell
Capehart	Johnson, Tex.	Saltonstall
Chapman	Johnston, S. C.	Schoeppel
Connally	Kefauver	Smith, Maine
Cordon	Kem	Smith, N. J.
Darby	Kerr	Sparkman
Donnell	Kilgore	Stennis
Douglas	Knowland	Taylor
Dworshak	Langer	Thomas, Okla.
Eastland	Leahy	Thomas, Utah
Ecton	Lehman	Thye
Ellender	Lodge	Tydings
Ferguson	Long	Watkins
Fulbright	Lucas	Wherry
George	McCarran	Wiley
Gillette	McCarthy	Williams
Green	McClellan	Withers
Gurney	McFarland	Young
Hayden	McKellar	
Hendrickson	McMahon	

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to Senate Resolution 253.

Mr. JOHNSON of Colorado. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOUGLAS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOUGLAS. Will not the Chair state the precise question before the Senate?

The PRESIDING OFFICER. The question is on agreeing to Senate Resolution 253. Those in favor will vote "yea" when their names are called and those opposed will vote "nay."

Mr. DOUGLAS. Those in favor of Reorganization Plan No. 7 should vote "nay" and those who are opposed to Reorganization Plan No. 7 should vote "yea"?

The PRESIDING OFFICER. The resolution provides that the Senate does not favor Reorganization Plan No. 7. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MYERS. I announce that the Senator from New Mexico [Mr. ANDERSON] is absent by leave of the Senate.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from Maryland [Mr. O'CONOR], and the Senator from Florida [Mr. PEPPER] are absent on public business.

The Senator from California [Mr. DOWNEY], and the Senator from Iowa [Mr. GILLETTE] are absent because of illness.

The Senator from Delaware [Mr. FREAR], and the Senator from Washington [Mr. MAGNUSON] are absent by leave of the Senate on official business.

The Senator from Montana [Mr. MURRAY] is absent because of a death in his family.

The Senator from Wyoming [Mr. O'MAHONEY] is detained on official business.

The Senator from New Mexico [Mr. CHAVEZ] is paired on this vote with the Senator from Maryland [Mr. O'CONOR]. If present and voting, the Senator from New Mexico would vote "yea," and the Senator from Maryland would vote "nay."

Mr. SALTONSTALL. I announce that the Senator from Vermont [Mr. FLANDERS], the Senator from Iowa [Mr. HICKENLOOPER], the Senator from Colorado [Mr. MILLIKIN], the Senator from Oregon [Mr. MORSE], and the Senator from Michigan [Mr. VANDENBERG] are absent by leave of the Senate. If present and voting the Senator from Iowa [Mr. HICKENLOOPER], the Senator from Colorado [Mr. MILLIKIN], and the Senator from Oregon [Mr. MORSE], would each vote "yea."

The Senator from Ohio [Mr. TAFT] and the Senator from New Hampshire [Mr. TOBEY] are detained on official business.

The yeas and nays resulted—yeas 66, nays 13, as follows:

YEAS—66

Aiken	Hendrickson	Martin
Brewster	Hill	Maybank
Bricker	Hoey	Mundt
Bridges	Holland	Myers
Butler	Hunt	Neely
Byrd	Ives	Robertson
Cain	Jenner	Russell
Capehart	Johnson, Colo.	Saltonstall
Chapman	Johnson, Tex.	Schoeppel
Connally	Johnston, S. C.	Smith, Maine
Cordon	Kem	Smith, N. J.
Darby	Kerr	Stennis
Donnell	Kilgore	Taylor
Dworshak	Langer	Thomas, Okla.
Eastland	Lodge	Thomas, Utah
Ecton	Long	Thye
Ellender	McCarran	Tydings
Ferguson	McCarthy	Watkins
Fulbright	McClellan	Wherry
George	McFarland	Wiley
Gurney	McKellar	Withers
Hayden	Malone	Young

NAYS—13

Benton	Kefauver	McMahon
Douglas	Knowland	Sparkman
Gillette	Leahy	Williams
Green	Lehman	
Humphrey	Lucas	

NOT VOTING—17

Anderson	Hickenlooper	O'Mahoney
Chavez	Magnuson	Pepper
Downey	Millikin	Taft
Flanders	Morse	Tobey
Frear	Murray	Vandenberg
Graham	O'Conor	

The PRESIDING OFFICER. On this vote the yeas are 66, the nays 13. A majority of the authorized Members of the Senate having voted in the affirmative, the resolution (S. Res. 253) is agreed to.

REORGANIZATION PLANS

Mr. JOHNSON of Colorado obtained the floor.

Mr. McCLELLAN. Mr. President, will the Senator from Colorado yield to me?

Mr. JOHNSON of Colorado. I yield.

Mr. McCLELLAN. I wish to make an announcement for the information of the Senate. Twenty-one reorganization plans were originally sent to the Congress, some 2 months ago, on which the deadline will be Tuesday night, and I wish to announce that the Committee on Expenditures in the Executive Departments, to which they were referred,

has taken action on all 21, with the following results:

The committee has reported favorably 10 of the plans against which no resolution of disapproval was submitted. Of the 11 plans against which resolutions of disapproval have been submitted, the committee reported four of the resolutions favorably, three unfavorably, and four have been reported without recommendation.

I may say that one reason for reporting three of the last four without recommendation was the fact that the committee does not have time to make reports on them. We concluded the hearings, but the hearings have not yet been printed, and we simply did not have time to give the resolutions the further deliberation we felt they should have.

I call this to the attention of the Senate, and will have the hearings printed as quickly as possible, so that each Senator may have an opportunity to study the record and make up his mind with respect to the merits of the various resolutions.

REORGANIZATION PLAN NO. 11

Mr. JOHNSON of Colorado. Mr. President, in a moment I shall move to proceed to the consideration of Senate Resolution 256 with respect to Reorganization Plan. No. 11. If that motion is agreed to I shall ask unanimous consent that 15 minutes be allotted to each side, and that a vote be taken at the end of the 30-minute period.

Mr. President, I now move that the Senate proceed to the consideration of Senate Resolution 256 relating to Reorganization Plan No. 11 of 1950.

The PRESIDING OFFICER. (Mr. CHAPMAN in the chair). The resolution will be read.

The Chief Clerk read the resolution (S. Res. 256), as follows:

Resolved, That the Senate does not favor the Reorganization Plan No. 11 transmitted to Congress by the President on March 13, 1950.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Colorado [Mr. JOHNSON].

The motion was agreed to; and the Senate proceeded to consider the resolution.

Mr. JOHNSON of Colorado. Mr. President, I move to limit debate to 15 minutes to each side, making a total of 30 minutes for both sides.

Mr. LUCAS. Mr. President, reserving the right to object, I understand that the Senator has made a motion?

Mr. JOHNSON of Colorado. I have put it in the form of a motion, yes.

Mr. LUCAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LUCAS. Is that motion debatable?

The PRESIDING OFFICER. The motion is not debatable under the rules.

Mr. LUCAS. Mr. President, I ask unanimous consent to speak for 1 minute.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Illinois? The Chair hears none, and the Senator from Illinois may proceed.

Mr. LUCAS. Mr. President, under the rule 10 hours is provided for debate. It seems to me that 15 minutes to each side is not a sufficient amount of time.

Mr. JOHNSON of Colorado. I may say to the Senator that the various plans reported from the committee are all of one kind. The Senator himself made a statement to that effect a few moments ago. We have discussed plan No. 7 quite thoroughly. It would seem that we could proceed with the plan now before the Senate without repeating all the debate that was had previously on plan No. 7.

Mr. LUCAS. It seems to me that 15 minutes on each side on a reorganization plan so important as this one is not sufficient.

Mr. JOHNSON of Colorado. How much time does the Senator suggest?

Mr. LUCAS. I am not a member of the committee. I do not know whether any other member of the committee wants to discuss the plan.

Mr. JOHNSON of Colorado. I will say to the majority leader that I do not know of any speeches that are proposed to be made on this matter.

Mr. LUCAS. I do not know whether or not there will be any speeches made on it.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield.

Mr. McCLELLAN. As chairman of the Committee on Expenditures in the Executive Departments, I do not know what Senators desire to speak on this particular resolution. So far as I am concerned I have no objection to a limitation of 30 minutes. However, a limitation of an hour can be fixed if Senators desire, or some other period of time.

It is a matter of accommodating the whole membership of the Senate. So far as I am concerned I am perfectly willing that every Senator may have as much time as he wants to discuss the plan. It is a matter of accommodating ourselves, that is all I see in it. If any Senator believes he will require more time I have no objection to granting him whatever time he believes he requires.

Mr. LUCAS. May I ask the Senator from Colorado, When was the resolution of disapproval reported to the Senate?

Mr. JOHNSON of Colorado. It was voted on in the committee a week ago, but the report was placed on the calendar yesterday. However, there is a deadline which must be met, which is the 23d of May. We will have to press as hard as we can to get these plans out of the way. We must press as hard as we can if we are to have an opportunity to vote on each one of them.

Mr. LUCAS. Mr. President, so far as I am concerned I shall make no objection, because I am not a member of the committee. It seems to me that 30 minutes is not sufficient time, however, on a plan of this kind.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield to the Senator from Minnesota.

Mr. WHERRY. Mr. President, is the motion debatable?

The PRESIDING OFFICER. It is not.

Mr. WHERRY. I ask for the regular order.

The PRESIDING OFFICER. The question is on the motion of the Senator from Colorado [Mr. JOHNSON].

The motion was agreed to.

Mr. JOHNSON of Colorado. I yield the Senator from Arizona [Mr. MCFARLAND] 10 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 10 minutes.

Mr. McFARLAND. Mr. President, it is with regret that I find myself in disagreement with the recommendations of the President of the United States upon this plan. However, it is my opinion that there is involved here a fundamental principle of government, a principle which Congress must decide for itself, because this plan, as the preceding plan which has just been discussed at length and voted down, involves one of the arms of Congress, a commission which exercises quasi-legislative and quasi-judicial functions. I personally feel that it is important that Congress preserve the independence of that commission, the independence of which was established in the act creating that commission some years ago.

Mr. President, there was quoted this afternoon, with approval, the famous Humphrey case. That decision involved questions which are directly pertinent to the issue here and because of the importance to our Government of the principles involved, I wish again to quote from that decision. The case was one in which the President of the United States sought to remove Mr. Humphrey from the Federal Trade Commission, another independent commission. The Supreme Court held that the President did not have the power to remove the Commissioner except for the specific causes set forth in the act by the Congress. In rendering that decision, the Supreme Court used this language:

Such a body (FTC) cannot in any proper sense be characterized as an arm or an eye of the Executive. Its duties are performed without Executive leave and, in the contemplation of the statute, must be free from Executive control.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. McFARLAND. I yield.

Mr. CONNALLY. Is it not true though that the Humphrey case was based upon the idea that in the statute creating the office provision was made as to the manner in which commissioners could be removed, and that therefore any removal had to follow what was prescribed in the statute; but that without those instructions the President had the absolute right, as held in the Myers case, to remove them?

Mr. McFARLAND. That may be true, but the point I am trying to make here is the law which the Supreme Court has laid down, the principles enunciated by the Supreme Court in making its holding. I submit that they are applicable to the plan we have under consideration.

Mr. President, I have only a few minutes and I do not want to yield further

81ST CONGRESS
2D SESSION

S. RES. 253

IN THE SENATE OF THE UNITED STATES

APRIL 12 (legislative day, MARCH 29), 1950

Mr. JOHNSON of Colorado submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, favorably

MAY 17 (legislative day, MARCH 29), 1950

Considered and agreed to

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 7 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 253

RESOLUTION

Disapproving Reorganization Plan Numbered 7 of 1950.

By Mr. JOHNSON of Colorado

APRIL 12 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950
Reported favorably

MAY 17 (legislative day, MARCH 29), 1950
Considered and agreed to

81st Congress, 2d Session | HOUSE OF REPRESENTATIVES | Document No. 512

REORGANIZATION PLAN NO. 8 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 8 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE FEDERAL TRADE COMMISSION

March 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 8 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Federal Trade Commission. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 8 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 8 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

FEDERAL TRADE COMMISSION

Section 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Federal Trade Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of members of the Commission other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

Sec. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

Sec. 3. *Designation of Chairman.*—The functions of the Commission with respect to choosing a Chairman from among the membership of the Commission are hereby transferred to the President.

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81ST CONGRESS
2D SESSION

S. RES. 254

IN THE SENATE OF THE UNITED STATES

APRIL 12 (legislative day, MARCH 29), 1950

Mr. JOHNSON of Colorado submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 8 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 254

RESOLUTION

Disapproving Reorganization Plan Numbered 8 of 1950.

By Mr. JOHNSON of Colorado

APRIL 12 (legislative day, MARCH 29), 1950

Referred to the Committee on Expenditures in the Executive Departments

Calendar No. 1571

81st Congress, 2d Session | SENATE | Report No. 1562

REORGANIZATION PLAN NO. 8 OF 1950, PROVIDING FOR THE REORGANIZATION OF THE FEDERAL TRADE COMMISSION

May 16 (legislative day, March 29), 1950.—Ordered to be printed

Mr. O'Conor, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany S. Res. 254]

The Committee on Expenditures in the Executive Departments, to which was referred Senate Resolution 254, expressing disapproval of Reorganization Plan No. 8 of 1950 (reorganizing the Federal Trade Commission), having considered the same, report unfavorably thereon, and recommend that the Senate do not approve the resolution.

[H. Doc. No. 512, 81st Cong., 2d sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING REORGANIZATION PLAN NO. 8 OF 1950, PROVIDING FOR REORGANIZATIONS IN THE FEDERAL TRADE COMMISSION

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 8 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Federal Trade Commission. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 8 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 8 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

FEDERAL TRADE COMMISSION

Section 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Federal Trade Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of members of the Commission other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

Sec. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

Sec. 3. *Designation of Chairman.*—The functions of the Commission with respect to choosing a Chairman from among the membership of the Commission are hereby transferred to the President.

HEARINGS

The committee on April 24, 25, and 26, 1950, conducted hearings jointly upon resolutions of disapproval introduced in the Senate upon reorganization plans submitted to the Eighty-first Congress, second session, as follows:

Senate Resolution 253—Reorganization Plan No. 7 (Interstate Commerce Commission).

Senate Resolution 254—Reorganization Plan No. 8 (Federal Trade Commission).

Senate Resolution 255—Reorganization Plan No. 9 (Federal Power Commission).

Senate Resolution 256—Reorganization Plan No. 11 (Federal Communications Commission).

The testimony of 21 witnesses was heard. Three witnesses, Frederick J. Lawton, Director, Bureau of the Budget; James H. Rowe, former member of the Hoover Commission; and Harold Leventhal, representing the Citizens Committee for the Hoover Report, testified in favor of all four plans. Three witnesses, Senator Edwin C. Johnson, of Colorado, who introduced the resolutions of disapproval on the plans; Senator Ernest W. McFarland, of Arizona; and C. A. Miller, vice president and general counsel, American Short Line Railroad Association, testified in opposition to all four plans.

Acting Chairman Lowell B. Mason of the Federal Trade Commission submitted a statement to the committee in support of the provision of plan No. 8 which would authorize the President to designate the Federal Trade Commission Chairman. Commissioner James M.

Mead advised the committee that the Federal Trade Commission "has taken no action in this matter, and I see no objection to its approval by your body."

THE COMMITTEE'S FINDINGS

The intent of Reorganization Plan No. 8 of 1950 is to transfer administrative responsibility for the operation of the Federal Trade Commission from the Commissioners to the Chairman.

The single objective of plan No. 8 is to improve the organization, the administration, and the operation of the Federal Trade Commission by providing clear-cut channels of authority, by strengthening management and by eliminating confusion identified with "multi-headed" direction. It should be noted with all the emphasis that can be brought to bear that this reorganization plan in no way alters, modifies, or diminishes the substantive quasi-judicial or quasi-legislative functions of the Federal Trade Commission which are vested by statute in the Chairman and the Commissioners or the Commission as a whole. Beyond successful refutation, plan 8 retains those substantive functions in the Commission as provided by law.

Nothing could be clearer than the statement of the President in his message transmitting plans 7 through 13 dealing with regulatory agencies to the Congress. It follows in part:

> In regard to the regulatory agencies, the plans distinguish between two groups of functions necessary to the conduct of these agencies. One group includes the substantive aspects of regulation—that is, the determination of policies, the formulation and issuance of rules, and the adjudication of cases. All these functions are left in the board or commission as a whole. The other group of functions comprises the day-to-day direction and internal administration of the complex staff organizations which the commissions require. These responsibilities are transferred to the chairman of the agencies, to be discharged in accordance with policies which the commissions may establish. The chairman is to be designated in each agency by the President from among the commission members.

It is equally clear that the Commission on Organization of the Executive Branch of the Government was firmly convinced that the consummation of its recommendations, upon which plan No. 8 is based, would have no effect whatsoever upon the quasi-judicial or the quasi-legislative functions of any regulatory agency. In referring to its important recommendation that all administrative responsibility be vested in the Commission Chairman, the Hoover Commission stated:

> This recommendation does not derogate from the statutory responsibilities placed upon the other members of the Commission. They remain exactly as they are, and because of the better functioning of the organization the Commission members will be enabled to discharge these responsibilities much more effectively.

Plan No. 8 accomplishes the Commission on Organization's objective of centering administrative responsibility for day-to-day operations of the Federal Trade Commission in its Chairman by (1) transferring (subject to the limitations hereafter defined) of all executive functions to the Commission Chairman, and (2) authorizing the Chairman to delegate these functions to officials, employees, and staff units of the Commission.

Such action is squarely in accord with recommendations of the Hoover Commission, not only in its first report on general management of the executive branch (recommendation 14, "Heads of departments must have full responsibility for conduct of their departments";

recommendation 18, "Each department head should receive from Congress administrative authority to organize his department"; recommendation 20, "The department head should be given authority to determine the organization within his department"); but more specifically in its report on regulatory commissions (recommendation 1, "We recommend that all administrative responsibility be vested in the Chairman of the Commission," and recommendation 6, "That the statutes be amended to permit commissions to delegate routine * * * work to members of [their] staffs.")

In reaching its conclusions upon which the above recommendations were based the Commission on Organization found that—

> administration by a plural executive is universally regarded as inefficient. * * * Indeed, those cases where administration has been distinctly superior are cases where the administrative as distinguished from the regulatory duties have been vested in the chairman (Report on Regulatory Commissions, p. 5).

Elsewhere the Commission on Organization observed:

> Purely executive duties—those that can be performed far better by a single administrative official—have been imposed upon these commissions with the result that these duties have sometimes been performed badly. The necessity for performing them has interfered with the performance of the strictly regulatory functions (Report on Regulatory Commissions, p. 3).
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> * * * * * * *
>
> Administrative direction has not developed within the commission. Their chairmen are too frequently merely presiding officers at commission meetings. No one has been responsible for planning and guiding the general program of commission activity (Report on Regulatory Commissions, p. 4).

The Commission on Organization emphasized throughout its discussions of the regulatory commissions that the administrative burden has become so great upon individual commissioners that they are often forced to neglect their more vitally important substantive quasi-judicial functions. Plan No. 8 would correct this intolerable situation.

Section 1 of plan No. 8 which transfers the administrative functions to the Federal Trade Commission Chairman with respect to (1) the appointment and supervision of personnel, (2) the distribution of Commission business, and (3) the use and expenditure of funds, is rigidly limited. The Chairman would be governed by the general policies, regulatory decisions, and determinations of the Commission. The appointment by the Chairman of the heads of the major administrative units would be subject to full Commission approval. Full-time personnel regularly employed in the immediate offices of the individual Commissioners would not be affected by the plan. And, finally, the functions relating to revising budget estimates and to determining the distribution of appropriated funds to major programs would be reserved specifically to the Commission and not vested in the Chairman. In the view of such restrictions it is difficult to see how the Chairman could misuse the new administrative powers vested in him even if he were inclined to do so.

Much unfounded concern has been expressed that plan No. 8 would "vitiate" the Administrative Procedure Act of 1946 with relation to the independent responsibilities of hearing examiners. In the judgment of the majority of the Committee on Expenditures in the Executive Departments this allegation is entirely without merit.

As stated previously, plan No. 8 affects administrative matters only. In no way do its provisions affect substantive functions nor quasi-

judicial procedure. The provisions of the Administrative Procedure Act relating to the separation of responsibilities of the Government's quasi-judicial bodies fully apply. That act includes specific protections as follows:

1. It provides for an internal separation of these two responsibilities so that the same individual cannot exercise both functions (sec. 5c).

2. It provides that no one who has participated in the prosecution of a case shall participate in or even advise in the decision of the regulatory commission or the hearing examiner (sec. 5c).

3. It provides that the hearing examiners, and the commissions when hearing cases on appeal, must make the decision in each case solely from the evidence, briefs, and oral arguments submitted on the record in connection with the quasi-judicial proceeding (sec. 7d).

Even a casual study of the provisions of plan No. 8 reveals that the administrative functions transferred in no way relate to the separation of responsibilities provided for by the Administrative Procedure Act. Any view to the contrary is difficult to successfully support.

It was contended at the hearings that the plan would vest in the Chairman the right to hire and fire hearing examiners without recourse to the Commission, and that he might influence decisions on cases which met his approval by assignments to examiners who were inclined to the same views. The facts do not bear out these contentions inasmuch as hearing examiners cannot be appointed by the Chairman alone without Commission approval, and adequate protections are contained in the Administrative Procedure Act relative to assignment of cases on a rotation basis, which the Chairman could not ignore. The fact that hearing examiners were not specifically exempted in plans Nos. 7 to 13, as they were in plans Nos. 1 to 6, is due to the provision in the Administrative Procedure Act, which adequately covers the appointment and supervision of such hearing examiners.

The majority report on Reorganization Plan No. 7 contends that the power of appointment and supervision of hearing examiners might be vested in the Chairmen, and indicates that they would be in a position under the authority granted in Reorganization Plans Nos. 7 to 13 to exercise arbitrary control over their decisions. With this contention the majority of the committee favoring Reorganization Plan No. 8 is in complete disagreement.

In addition to the above, it is obvious that plan No. 8 transfers no functions, administrative or otherwise, to the Chairman of the Federal Trade Commission which are not presently vested in the Commission itself. It follows, therefore, that if adoption of the plan violates the Administrative Procedure Act the Federal Trade Commission has operated in violation of the act ever since it was enacted because the administrative functions transferred to the Chairman without exception have been previously vested in the Commission itself.

The designation of the Federal Trade Commission Chairman by the President would provide an entirely normal channel of communication to the Commission without impairing its independence in any way.

The alleged "inherent dangers," which some witnesses projected into the future, simply do not exist in fact as was proved conclusively during the committee hearings when witnesses were unable to cite

any evidence whatsoever of Presidential domination of the chairmen of the five regulatory agencies which he presently appoints.[1]

With respect to designation of the chairman, the President in his message to the Congress covering Reorganization Plans Nos. 1 to 13 of 1950, made perfectly clear the management objective sought:

> * * * The designation of all chairmen by the President follows out the general concept of the Commission on Organization for providing clearer lines of management responsibility in the executive branch.

No other intent exists, no evidence has been presented of previous Executive domination of regulatory agencies, nor can anyone reasonably project such a danger into the future because the facts plainly do not support such a fear. This policy has already been established by the Congress itself in placing such appointive powers in the President insofar as recently created regulatory commissions are concerned, as indicated above.

CONCLUSION

The majority of the committee concludes that (1) plan 8 in no wise affects the quasi-judicial functions of FTC; (2) it makes no changes whatsoever in the substantive statutes governing FTC; (3) it seeks only to establish administrative responsibility for the day-to-day operations of FTC.

The plan reflects the best judgment of the Commission on Organization, the best experience in the administration of regulatory commissions over the years, and offers not only greatly improved efficiency but long-range economy. Viewed objectively it marks a tremendous stride toward better government at lower cost.

For these reasons the Senate Committee on Expenditures in the Executive Departments recommends Senate Resolution 254, disapproving Reorganization Plan No. 8 of 1950, be rejected by the Senate.

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[1] FCC; CAB; NLRB; Maritime Commission; and Federal Reserve Board.

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Calendar No. 1571

81ST CONGRESS
2D SESSION

S. RES. 254

[Report No. 1562]

IN THE SENATE OF THE UNITED STATES

APRIL 12 (legislative day, MARCH 29), 1950

Mr. JOHNSON of Colorado submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950

Reported adversely by Mr. O'CONOR

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 8 transmitted to Congress by the President on March 13, 1950.

Calendar No. 1571

81ST CONGRESS
2D SESSION

S. RES. 254

[Report No. 1562]

RESOLUTION

Disapproving Reorganization Plan Numbered 8 of 1950.

By Mr. JOHNSON of Colorado

APRIL 12 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950
Reported adversely

tion has never been better revealed than by the public meeting of the President's Cabinet Sunday on the stage of a Chicago opera house.

Never before has a presidential cabinet done such a thing. Gathered there on the Chicago stage were the highest ranking administrators of American Government—men who had deserted their Washington posts in a time of crisis to go to Chicago at the people's expense and cavort publicly for the political benefit of their boss, Harry S. Truman.

No effort was made to disguise the political nature of the meeting. Party chairmen, Congressmen, and labor leaders sat on the stage with the Vice President and the cabinet officers while the latter gave "accountings of stewardship" and poured heavy flattery on the boss.

Thus in a period of history when America is striving desperately for moral leadership in a world beset by tyranny the highest officers of American Government lower their conduct to the level of a carnival sideshow. Why didn't they also put on clown suits and belabor one another with sheep bladders to the strains of a hillbilly band? That would really have given the folks out front a laugh.

It was bad enough when Charlie Brannan brazenly hired an audience at $8 a head in St. Paul. It was worse when Harry Truman embarked at public expense on an extravagantly costly campaign tour which he cynically labeled "nonpolitical." But Sunday's Cabinet meeting on a Chicago stage was a new low. It was an insult to the Republic of the United States.

The Truman administration evidently has a very poor opinion of public intelligence and moral standards. The Fair Dealers seem to think people are so dazzled by the "bread-and-circus" approach to government that they will see nothing wrong with such disgraceful breaches of conduct as the Chicago Cabinet meeting. Is that true? Time will tell.

REORGANIZATION PLAN NO. 8

Mr. JOHNSON of Colorado. Mr. President, I should like to have the attention of the majority leader. I wish to call up Senate Resolution 254, having to do with Reorganization Plan No. 8, tonight. It is Calendar No. 1571. I understand that some debate, perhaps rather extended debate, may take place tonight with respect to that plan. Therefore, I should like to ask that the time be not divided this evening, but that on Monday, after the routine business of the Senate is completed, perhaps about 1 o'clock, the Senate proceed to the consideration of this resolution, that the time be divided equally, and that a vote be taken on it by 2 o'clock, or 1:30. I wanted to ask the majority leader whether that would be agreeable to him.

Mr. LUCAS. Does the Senator believe we could finish it tonight within an hour or two?

Mr. JOHNSON of Colorado. No, I do not think we can. I do not think we can finish it this evening. It will take about 30 minutes on Monday. I know that one Senator, who is opposing the resolution, wishes to speak for 20 minutes on Monday, and I should like to accommodate him. He is supporting the plan but opposing the resolution. I think it would be much better for everyone concerned if such an arrangement can be made.

Mr. LUCAS. I should like to inquire how many more resolutions of disapproval there are, if some Senator can give me that information.

Mr. JOHNSON of Colorado. I have two resolutions of disapproval.

Mr. LUCAS. I understand the Senator from Wisconsin [Mr. WILEY] has one. May I ask the Senator from Arkansas how many more resolutions of disapproval there are which have not been disposed of?

Mr. McCLELLAN. There are five more, as I recall.

Mr. WILEY. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield.

Mr. WILEY. Mr. President, I was informed this afternoon that the Senator from Oklahoma [Mr. KERR] wished to have a resolution considered. A few moments ago I was advised that the Senator from Oklahoma had been called from the floor. I should like to give notice that at noon on Monday, after a quorum call has been had, I shall call up Senate Resolution 259, relating to Reorganization Plan No. 5. At this time, Mr. President, I should like to place in the RECORD a copy of Reorganization Plan No. 5, which was submitted by the President, so that those who read the RECORD may see the meat which is involved in the plan. I should like to give notice that I shall call it up, and I should like to ask unanimous consent that I may have the floor at that time, and that each side may have 1 hour in which to discuss the question.

There being no objection, Reorganization Plan No. 5 of 1950 was ordered to be printed in the RECORD, as follows:

RORGANIZATION PLAN NO. 5 OF 1950

(Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949)

DEPARTMENT OF COMMERCE

SECTION 1. Transfer of functions to the Secretary: (a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Commerce all functions of all other officers of the Department of Commerce and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of Commerce, nor to the functions of the Civil Aeronautics Board, of the Inland Waterways Corporation, or of the Advisory Board of the Inland Waterways Corporation.

SEC. 2. Performance of functions of Secretary: The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Commerce of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

SEC. 3. Administrative Assistant Secretary: There shall be in the Department of Commerce an Administrative Assistant Secretary of Commerce, who shall be appointed, with the approval of the President, by the Secretary of Commerce under the classified civil service, who shall perform such duties as the Secretary of Commerce shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 4. Incidental transfers: The Secretary of Commerce may from time to time effect such transfers within the Department of Commerce of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

Mr. JOHNSON of Colorado. I have already made a request that Senate Resolution 254 be now considered and that consideration of it be concluded on next Monday. I made the request while the Senator from Wisconsin was absent from the floor.

Mr. WILEY. How much time will it take?

Mr. JOHNSON of Colorado. I do not think it will take more than half an hour or 45 minutes on Monday. I do not know how much time it will take this evening. The debate will be open tonight, and the time will not be divided. Some speeches need to be made on it tonight.

Mr. WILEY. Then, if the Senator will yield further, I should like to amend my request. I want to say, parenthetically, that I remember very well the statement of the majority leader that all resolutions affecting reorganization plans would be considered, and, bearing that in mind, I have refrained from injecting myself into whatever business was pending. I think this is a very important matter, and I should like to amend my unanimous-consent request to the extent that when consideration of the pending business is concluded, I may be privileged to call up Senate Resolution 259 and that the time be divided 1 hour on each side.

The PRESIDING OFFICER. The Parliamentarian informs the Chair that that is not in order until the resolution is called up.

Mr. JOHNSON of Colorado. Mr. President, I hope the Senator will not press his unanimous-consent request tonight. I do not think we shall have any difficulty on Monday in finishing up the discussion on his plan and the two plans which I have in mind. The two plans which I hope to bring up are very similar, and we can reduce the debate by handling them together. Senate Resolution 254 will probably take 30 to 45 minutes on Monday, and Senate Resolution 255, I am certain, will not require more than 30 minutes. Then we could proceed to consider the resolution to which the Senator from Wisconsin has referred, and I am as nearly sure as one can be sure of anything in the Senate that we can proceed with his resolution by 2:30 p. m. on Monday.

Mr. WILEY. I thank the Senator, and I am very happy to have that statement. I shall expect cooperation to that end. I know every Senator wants to conclude the business which it has been said will be considered in due season.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield.

Mr. LUCAS. There are five resolutions upon which the Senate must act by next Tuesday at midnight. I am certain that during Monday and Tuesday we shall be able to dispose of those resolutions. If there is any determination

on the part of Senators to debate any of them at any great length, we shall have to remain late on Monday night. I served notice on the Senate sometime ago that we would probably hold a night session tonight to dispose of some of these matters, but I am satisfied that we can dispose of all five of the resolutions on Monday and Tuesday.

I notice that the Senator from Maryland is on his feet——

Mr. O'CONOR. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield.

Mr. O'CONOR. I agree entirely with the statement of the Senator from Illinois. There are several Senators who desire to speak in support of the President's reorganization plans. From all indications, the opposition is not such that it will require any more lengthy discussion than that which has been indicated. I feel certain that we can conclude debate on them on Monday and Tuesday, which, of course, is necessary.

Mr. JOHNSON of Colorado. Mr. President, I hardly know how to proceed. I was about to move that the Senate proceed to the consideration of Senate Resolution 254, disapproving Reorganization Plan No. 8 of 1950, and that the time for the remainder of the day be not divided, but that on next Monday, after 12:30 p. m., the time be equally divided between the proponents and opponents of the resolution, and that the total time be one hour.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield.

Mr. McCLELLAN. Does that apply only to the one reorganization plan?

Mr. JOHNSON of Colorado. Yes.

Mr. McCLELLAN. Thereafter the Senator has in mind bringing up another plan?

Mr. JOHNSON of Colorado. Yes.

Mr. McCLELLAN. How much time will be consumed on the other plan?

Mr. JOHNSON of Colorado. The proponents of the resolution will need very little time.

Mr. McCLELLAN. The Senator is asking merely to take it up, and after 12:30 o'clock on Monday the time of 1 hour be divided equally between the proponents and the opponents?

Mr. JOHNSON of Colorado. Yes.

Mr. WILEY. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield.

Mr. WILEY. I understand it is proposed to take up Plans No. 8 and No. 9 and to conclude their consideration on Monday?

Mr. JOHNSON of Colorado. Plan No. 8 would be the first one to be taken up, to be followed by Plan No. 9, and Plan No. 5, in which the Senator from Wisconsin is interested.

Mr. McCARRAN. Is it contemplated that a vote be taken at 1:30 on Monday?

Mr. JOHNSON of Colorado. Yes.

Mr. McCARRAN. No vote is to be had today on either plan.

Mr. JOHNSON of Colorado. There is to be no vote on either plan today.

Mr. President, I move that the Senate proceed to the consideration of Senate Resolution 254, a resolution disapproving Reorganization Plan No. 8 of 1950, that the time for the remainder of the day be not divided, that beginning at 12:30 on Monday next the time be equally divided between the proponents and the opponents of the resolution, and that the Senate vote on the resolution at 1:30 o'clock on Monday.

Mr. LUCAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LUCAS. Would it not be better to have the Senator make a motion to consider the resolution and then ask for a unanimous-consent agreement?

The PRESIDING OFFICER. The motion which has been made by the Senator from Colorado can be presented as a unanimous-consent request.

Mr. LUCAS. I shall not object to it.

Mr. JOHNSON of Colorado. The reason I wanted to put it in one package is to avoid any necessity for voting tonight, because if we should leave it wide open when debate ceased tonight we would have to start voting on Senate Resolution 254, and I wanted to avoid that. I wanted to make certain that we would vote on Monday. That is why I wanted it in one package.

Mr. LUCAS. Reserving the right to object, I wish to be certain that members of the Committee on Expenditures in the Executive Departments, who are opposed to the resolution, will have sufficient time to debate the subject.

Mr. O'CONOR. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield.

Mr. O'CONOR. I think I should say in reply to the Senator from Illinois that it would be preferable if a little longer time could be allowed, because the Senator from Connecticut [Mr. BENTON], who has been very active in these matters, desires some time on Monday, and a situation may be brought about which may require more extensive debate.

Mr. JOHNSON of Colorado. I wish to say to the majority leader that apparently signals have been switched on me since I started to make this request. I understood that the Senator from Connecticut [Mr. BENTON] would make his speech tonight. That is why I was making the motion to proceed now, because I understood he wanted to make his speech this evening. Now I understand he wishes to make it on Monday.

Mr. LUCAS. I do not see any reason why we should detain the Senator from Connecticut and permit other Senators to make their addresses on Monday.

Mr. JOHNSON of Colorado. That was his own choice. It was not the choice of the Senator from Colorado. I did not figure that one out. That was at his own request.

Mr. LUCAS. I cannot keep the Senator from Connecticut from speaking if he so desires.

Mr. BENTON and Mr. McCLELLAN addressed the Chair.

Mr. JOHNSON of Colorado. I yield first to the Senator from Connecticut.

Mr. BENTON. I had first intended to speak today, on the assumption that the resolution was to be considered today and voted on today. Later I told the Senator from Colorado that I would speak today, with the understanding that the vote would be taken on Monday. That is as he stated the understanding. However, I am now advised by my senior and adviser, the Senator from Maryland [Mr. O'CONOR], that he believes it would be better if I spoke on Monday. Therefore, in line with that advice, I prefer to wait and speak on Monday.

The Senator from Maryland also wishes to speak. I do not know whether he wants to speak today or on Monday. It has a bearing on the amount of time which would be required, because, as the Senator from Minnesota also desires to speak, it is estimated that we will require about 1 hour between the three of us. Of course if we spoke today we would take less than an hour on Monday.

Mr. JOHNSON of Colorado. I should like to suggest a change in the time of voting from 1:30 to 2 o'clock, and give the opponents 1 hour. The proponents will not need an hour.

Mr. LUCAS. Could the Senator make it 2:30?

Mr. JOHNSON of Colorado. Very well. We shall start at 12:30, divide the time equally, and set the time for the vote at 2:30.

Mr. WILEY. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield.

Mr. WILEY. Can the Senator estimate how much time discussion of the resolution to which I have referred will take?

Mr. JOHNSON of Colorado. It is unpredictable. I do not think it will take much time.

Mr. WILEY. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. Yes.

Mr. WILEY. It seems to me that in the interest of trying to get things done, and in order to avoid any fear that we shall run into a stalemate or some kind of interference, the original proposal of the Senator that we continue tonight and cover some of the ground should be adhered to. In that way we would be able to finish consideration of some of the other plans by this time on Monday. I wish the majority leader would consent to the original proposal. That is the way I feel.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield.

Mr. LUCAS. I would not object if the Senator from Connecticut wished to speak now. Perhaps the Senator from Wisconsin desires to speak now on his resolution, and get it out of the way. His address would be in the RECORD, and Senators could read it on Monday. I am glad to stay here. Everyone seems to be a little tired and is trying to get away for the week end. I assure the Senator that we shall take up his resolution. I say again, Mr. President—and I sincerely hope every Senator will take this to heart—that in view of the circumstances, probably on Monday night, we shall have to hold a night session. Everyone wants to put off a vote because everyone wants to go home. Perhaps Senators are afraid they would not get 49 votes. I do not know what the situation

is. I am willing to cooperate and give every other Senator an opportunity to cooperate. However, we cannot take any more chances on Monday. If we are to take two and a half hours on one plan, two and a half hours on another, two and a half hours on the plan of the Senator from Wisconsin, we shall be here a long time.

Mr. WILEY. No.

Mr. LUCAS. It is impossible to tell about those things. Senators have a way of saying much when they do not mean to talk.

The PRESIDING OFFICER. The motion of the Senator from Colorado as a motion is not in order. As a unanimous consent request, the Chair is informed, it is in order. Does the Senator submit his request in the form of a motion or in the form of a unanimous consent request?

Mr. JOHNSON of Colorado. I submit it in the form of a motion, and change the time for voting on Resolution 254 to 2:30 p. m. It is in the form of a motion. The motion is not debatable. The time is to be equally divided between the proponents and opponents, and we are to start at 12:30 and vote at 2:30.

The PRESIDING OFFICER. If there is objection to the motion, it cannot be entertained.

Mr. McCLELLAN. Do I understand that the time on Monday would be equally divided between the proponents and opponents?

Mr. JOHNSON of Colorado. Yes.

Mr. LUCAS. I ask the Senator to make his motion in the form of a unanimous consent request.

Mr. JOHNSON of Colorado. Very well. I ask unanimous consent.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CALIFORNIA ALIEN LAND ACT—DECISION OF CALIFORNIA COURT OF APPEALS

Mr. WILEY. Mr. President, we have been debating FEPC for some time, and I have a suspicion that we will go on debating it for some time longer before we dispose of it and take up some major bill or resolution.

In this connection let me say that there appeared in the May 16 issue of the New York Times one of the most challenging articles I have seen written in many a day. It is by Arthur Krock. He brings to the attention of his readers and the American people the question as to how extensive the United Nations Charter is. He calls attention in the beginning of the article to a decision of the Court of Appeals of California.

Mr. DONNELL. Mr. President, will the Senator from Wisconsin yield?

Mr. WILEY. I yield.

Mr. DONNELL. I assure the Senator I have no desire to interfere in the slightest with his remarks, but I wondered if he knew that this article by Mr. Krock was placed in the body of the RECORD yesterday by me.

Mr. WILEY. I did not know that. I am very happy to learn it, and I am grateful to the Senator for informing me, because I was going to place it in the RECORD. Did the Senator, at the time he placed it in the RECORD, comment on it?

Mr. DONNELL. I do not recall any comments I made on the article.

Mr. WILEY. I shall proceed for a moment or two, because Mr. Krock raises a very challenging question, as to whether or not the charter of the United Nations is the supreme law of our land. The courts have held in a number of instances that treaties are the supreme law of the land and Mr. Krock brings to the fore the question whether or not the FEPC is necessary.

Down near the bottom of the article he says:

> But, observed Messrs. Kelly and Harbison, this "statute and treaty did not impair or damage the interests of any powerful vested right. The treaty in question did not touch upon the fundamentals of the social order, seriously involve the sanctity of private property, nor even work any very important practical change in the extent of Federal power."

He said at another point in the article:

> Until or unless—assuming the FEPC bill and others in the President's civil-rights program are not enacted—

And this is the issue—

> a citizen attempts to make a legal test of the contention that some or all of this program went automatically into effect when he ratified the Charter, the ultimate judicial finding must remain a matter of guesswork. But it is difficult to see how the Supreme Court, if it upheld this position, could compel Congress to provide the legislative machinery to give life to it. And it is difficult to envisage the executive department, since this part of the Charter is not self-executing, enforcing such a ruling on its own.

Mr. DONNELL. Again I say, I certainly have no desire to interfere with the Senator's remarks, but I wonder if he would have any objection to have the RECORD show at this point the fact that the California decision of the court of appeals to which Mr. Krock referred, and to which the Senator is speaking by reference to Mr. Krock's article, was called to the attention of the Senate on April 28, 1950, and that a copy of the decision, together with rather extended remarks by the present speaker, was placed in the body of the RECORD on that date.

Mr. WILEY. Again, I am very happy the Senator interrupted me, and I assure the Presiding Officer and others that I shall not carry on any legal discussion. I shall read with profit the comments of the distinguished Senator from Missouri on the decision.

Mr. President, this only brings to the fore the significance of maintaining this Government as a government of checks and balances. I was called out a few moments ago, and met about 50 or 60 high-school boys and girls from the Messmer High School in Milwaukee. When I met them I had to give them a few ideas, and I told them that the task of the future for them was to maintain a government in which there was an independent executive branch, an independent legislative branch, and an independent judicial branch. So I think this article, in addition to provoking thought, also brings to the fore the absolute necessity of maintaining these independent branches of Government, so that they will operate to check one another in order that absolute power will not gravitate into the hands of any one of them.

Mr. CONNALLY. Mr. President, will the Senator from Wisconsin yield?

Mr. WILEY. I yield to the Senator from Texas.

Mr. CONNALLY. Is the Senator aware of the fact that Dr. Manley O. Hudson, a very distinguished publicist, Bemis professor of international law at Harvard Law School, and also chairman of the International Law Commission of the United Nations, wrote a rather interesting article challenging the conclusion of the court in California?

Mr. DONNELL. Mr. President, will the Senator yield, with the permission of the Senator from Texas?

Mr. WILEY. I yield.

Mr. DONNELL. I should like to state, if the Senator has no objection, in order that we may have both sides of this matter in the RECORD, that I placed in the RECORD a few days ago the New York Times article which told of the filing of motion for rehearing by Attorney General Harbison, and the fact that as an appendix to that motion for rehearing there was an article by Prof. Manley O. Hudson, along the line to which the Senator from Texas has referred.

Mr. CONNALLY. Was the opinion of Dr. Hudson included?

Mr. DONNELL. Excerpts from it were included. I do not think a complete copy of Dr. Hudson's opinion was, but the article stated in substance that the Attorney General had filed a motion for rehearing, and that as an appendix to the motion the article by Dr. Hudson had been added, and various excerpts were given in the article.

Mr. CONNALLY. Has the Senator from Missouri a complete copy of Dr. Hudson's opinion?

Mr. DONNELL. I do not have a complete copy, but I should like very much to have it.

Mr. CONNALLY. I do not have a complete copy, but I think it should be published, because otherwise we are getting a one-sided view of this question. I cannot conceive that the United Nations had any conception that any doctrine like this would be invoked, and if we had thought so we would not have ratified the Charter. We never dreamed of such a thing.

Mr. DONNELL. Mr. President, if it would not be assuming too much upon myself, if the Senators personally prefer to have me do so, I shall endeavor to secure a copy of the statement of Dr. Hudson and incorporate it in the RECORD.

Mr. CONNALLY. That is agreeable to me.

Mr. DONNELL. Would the Senator from Wisconsin like it?

Mr. WILEY. Yes, I should be more than gratified, because I agree that in view of the fact that there has been a motion for rehearing, the court of appeals in California will have to decide this very issue, and then it will go to the Supreme Court of the United States, and

it is very important that we in the Senate get the opinion of that court and know what we are doing or not doing when we enter into treaties.

Mr. President, this is not only applicable to FEPC, but we are in more or less of a foggy domain at present because of this California decision, and I believe that in view of the world picture, and particularly in view of our responsibility to our respective constituencies, we must know what the answer is to this very issue. Certainly we are not now ready to turn over the Government of the United States to any group. We will have to wait until the nations of the earth have marched a little closer to the millennium before we will be willing to trust all our domestic and even our foreign policies in their hands.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. WILEY. I yield.

Mr. CONNALLY. The Senator is aware, is he not, that the decision is that of a California State court? It is not a decision of a Federal court or of the United States Supreme Court. So it will have to go through the Supreme Court of California before it can go to a United States court.

Mr. WILEY. Yes.

Mr. FERGUSON. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. HUMPHREY in the chair). Does the Senator from Wisconsin yield to the Senator from Michigan?

Mr. WILEY. I yield.

Mr. FERGUSON. I wish to remind the Senator that this matter has been called to the attention of the Senate on several occasions during debate. I hope the Senate as a whole will begin to consider what is being claimed in relation to treaties changing or modifying the fundamental law of the land.

That was brought forcibly before the Committee on the Judiciary when an antilynching bill was introduced. In the preamble to the bill it was asserted that certain things could be done under the bill by virtue of the United Nations Charter. The antilynching bill which came to the floor of the Senate naturally made no reference to the United Nations, because the Committee on the Judiciary was of the opinion that the assertions of the preamble of the bill were not valid.

Mr. DONNELL. Mr. President, will the Senator yield?

Mr. WILEY. I yield.

Mr. DONNELL. The Senate will recall that Senate bill 1728, the FEPC bill, the motion with respect to which is now before the Senate, contains a reference to the United Nations. That appears in the preambulary portions of the bill.

Mr. FERGUSON. I am familiar with that.

Mr. DONNELL. Mr. President, will the Senator from Wisconsin yield further?

Mr. WILEY. I yield.

Mr. DONNELL. Does the Senator recall that recently on the floor of the Senate, in discussion of the California case to which reference was made, the point was brought up as to the application of the doctrine of that case to the International Trade Organization agreement. I may say incidentally that this becomes of importance because on that day the distinguished senior Senator from Georgia [Mr. GEORGE] expressed the view—which I stated was somewhat tentative, but on rereading his statement appeared to be not merely tentative, but quite clearly his opinion—that the International Trade Organization agreement should be considered as a treaty. Does the Senator also recall that the junior Senator from Colorado [Mr. MILLIKIN] urged very vigorously on the floor that day that the International Trade Organization agreement is a treaty and should be considered as such?

Mr. FERGUSON. Yes.

Mr. DONNELL. And, of course, if the International Trade Organization agreement is a treaty, and if the view of the California court shall prevail, obviously whatever is incorporated in the International Trade Organization agreement will become a part of the supreme law of the land.

I ask, Mr. President, if the Senator from Wisconsin will yield further?

Mr. WILEY. I yield.

Mr. DONNELL. Does the Senator recall also that in the course of the argument on the North Atlantic Treaty some months ago the Senator who is now speaking made the point in substance that contention may be made and may be sustained that the North Atlantic Treaty is the supreme law of the land; going much farther than the United Nations Charter itself along the line of mandatory provisions, and that we may be confronted sooner or later with the very contentions that all these matters, such as education and FEPC and civil rights, antilynching, and so forth, are already settled by reason of the fact that we have become parties to the North Atlantic Treaty and the United Nations Charter? Does the Senator recall that?

Mr. FERGUSON. I recall that. That is the reason I am saying what I am today on the floor of the Senate. I hope the Senate will not simply consider this to be a technicality. It is a very fundamental question.

Mr. DONNELL. It is, indeed.

Mr. FERGUSON. It is a very fundamental question, and that is illustrated by an editorial from which I wish to read as follows:

> The immediate consequence is that the Communists now argue that the UN has power to override the courts of the land and to set aside criminal convictions imposed in American jurisdictions.
>
> This position has been taken by Eugene Dennis, former national secretary of the Communist Party, 10 convicted Hollywood writers and directors, and several convicted officials of the Joint Anti-Fascist Refugee Committee, a Communist front. All are under sentence for contempt of Congress in refusing to answer questions or obey committee subpenas, and Dennis has now been ordered to start serving his term of 1 year.

The Communists are again claiming that there is nothing to it; that it is merely a camouflage and a smoke-screen. But I think we ought to start to consider what the effect of a treaty is upon the law of the land. The matter is a serious one.

Mr. DONNELL. Mr. President, will the Senator from Wisconsin yield further?

Mr. WILEY. I yield.

Mr. DONNELL. I apologize to the Senator from Wisconsin for infringing upon his time, but I want to say that to my mind the Senator from Michigan is perfectly right. There are some of us—or at least one of us here—accused of being overtechnical, and with some reason for the complaint, perhaps. I am referring to myself. But I desire to say that in this matter we are considering the very fundamentals of American law and of international law. We are considering the effect, first, of a treaty, and in the second place, we are considering the effect of the United Nations Charter as a treaty. In the next place ultimately we will be considering the effect of the North Atlantic Treaty as a treaty, and, as is pointed out by Mr. Krock in the article to which the Senator from Wisconsin referred, and which will be found in full at page 7295 of the CONGRESSIONAL RECORD of May 18, 1950, we are entering upon what Mr. Krock declares to be "one of the foggiest areas of the law."

Mr. President, with the consent of the two Senators, may I read these words from Mr. Krock? Says he, under date of May 15:

> The California court of appeal—

Incidentally, Mr. President, the California court of appeals consists of three judges, and the opinion was a unanimous one. It was printed at great length and with large headlines in the local publication similar to our Daily Record in St. Louis, obviously it being considered in California to be a publication of note, and one on which lawyers particularly rely and are interested in its notations with respect to the calendars of the courts, and so forth. Mr. Krock said:

> The California Court of Appeals, when it held that the Charter of the United Nations supersedes the California alien land statute because the Charter is a treaty, and a treaty is "the supreme law of the land"—

Mr. Krock is there quoting from the Constitution—

> reentered one of the foggiest areas of the law. The court said that, in adopting the Charter as a treaty, the United States committed itself to the doctrine of equal rights for all persons regardless of race, etc.; hence Sei Fujii, a Japanese, may own and occupy the California land he purchased regardless of the fact that under the State law he cannot.
>
> If this ruling reaches and is upheld by the Supreme Court, and the Senate talks down the administration's bill for a Federal Fair Employment Practice Commission, as is expected, many are asking why the substance of the FEPC bill would not automatically become the supreme law of the land also. As George A. Benson, editorials editor of the Toledo Times, pointed out the other day, part A of article 55 and all of article 56 (of the United Nations Charter) set forth the doctrine of equal rights for all persons regardless of race, religion, sex, and color, and the United States has subscribed to this in the form of a treaty—

And so forth. I simply want to emphasize what was said by the Senator from Michigan. I strongly agree with him, and I have no doubt from the fact that the Senator from Wisconsin started

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 81st CONGRESS, SECOND SESSION

Vol. 96 WASHINGTON, MONDAY, MAY 22, 1950 No. 101

Senate

(Legislative day of Wednesday, March 29, 1950)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

Our Father God, the might of them that put their trust in Thee; amid all the subtle dangers that beset us, save us from the fatal folly of attempting to rely upon our own strength. In a world so uncertain about many things, we are sure of no light but Thine, no refuge but in Thee.

As the toil of a new week and a new day opens before us, may the meditations of our hearts be acceptable in Thy sight. Bend our pride to Thy control. Prepare us for the role committed to our fallible hands in this appalling day, with its vast issues and decisions that concern not only our own dear land, but all the continents and the islands of the sea. Grant that our hearts may be shrines of prayer and our Nation a bulwark for the oppressed and a flaming beacon of hope whose beams shall battle the darkness in all the world. We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. LUCAS, and by unanimous consent, the reading of the Journal of the proceedings of Friday, May 19, 1950, was dispensed with.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, and he announced that on May 19, 1950, the President had approved and signed the act (S. 3396) authorizing the Secretary of the Army to convey to the State of Kentucky title to certain lands situated in Hardin and Jefferson Counties, Ky.

LEAVES OF ABSENCE

On request of Mr. LUCAS, and by unanimous consent, Mr. MAYBANK was excused from attendance on the sessions of the Senate for the next few days, because of a death in his family.

On request of Mr. LUCAS, and by unanimous consent, Mr. JOHNSTON of South Carolina was excused from attendance on the sessions of the Senate for an indefinite period.

On request of Mr. WHERRY, and by unanimous consent, Mr. GURNEY and Mr. HICKENLOOPER were excused from attendance on the sessions of the Senate for an indefinite period.

CORRECTION

Mr. BENTON. Mr. President, at the request of the junior Senator from South Carolina [Mr. JOHNSTON], who is necessarily absent from the Senate today, I ask unanimous consent that a correction be made in his speech in the Senate on May 15, which appears on page 7099 of the RECORD.

The junior Senator from South Carolina inserted in the RECORD in connection with his speech a publication called Faith and Freedom, the monthly journal of the Mobilization for Spiritual Ideals. The Senator noted at that time that it was issued by the Catholic Church. The Senator has been informed that the publication is in no way connected with the Catholic Church, or with any organization that is affiliated in any way with the Catholic Church. Faith and Freedom is published by a Congregational minister, Dr. James W. Fifield, of Los Angeles, Calif.

The VICE PRESIDENT. The correction will be made.

CALL OF THE ROLL

Mr. LUCAS. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Ellender	Knowland
Anderson	Ferguson	Leahy
Benton	Flanders	Lehman
Brewster	Fulbright	Long
Bricker	George	Lucas
Bridges	Gillette	McCarran
Butler	Hayden	McCarthy
Byrd	Hendrickson	McClellan
Cain	Hill	McFarland
Capehart	Hoey	McKellar
Chapman	Holland	McMahon
Connally	Humphrey	Magnuson
Cordon	Hunt	Malone
Darby	Ives	Martin
Donnell	Johnson, Colo.	Millikin
Douglas	Johnson, Tex.	Mundt
Dworshak	Kefauver	Neely
Eastland	Kem	O'Conor
Ecton	Kilgore	O'Mahoney
Robertson	Sparkman	Tydings
Russell	Stennis	Watkins
Saltonstall	Taft	Wherry
Schoeppel	Taylor	Wiley
Smith, Maine	Thomas, Utah	Williams
Smith, N. J.	Thye	Withers

Mr. LUCAS. I announce that the Senator from New Mexico [Mr. CHAVEZ], the Senator from South Carolina [Mr. JOHNSTON], and the Senator from Oklahoma [Mr. THOMAS] are absent by leave of the Senate.

The Senator from California [Mr. DOWNEY] and the Senator from North Carolina [Mr. GRAHAM] are absent because of illness.

The Senator from Delaware [Mr. FREAR] is absent by leave of the Senate on official business.

The Senator from Rhode Island [Mr. GREEN] is absent by leave of the Senate on official business as a member of a subcommittee of the Committee on Foreign Relations investigating the security program of the Department of State and its foreign establishments.

The Senator from Oklahoma [Mr. KERR], the Senator from Pennsylvania [Mr. MYERS], and the Senator from Florida [Mr. PEPPER] are absent on public business.

The Senator from South Carolina [Mr. MAYBANK] is absent by leave of the Senate because of a death in his family.

The Senator from Montana [Mr. MURRAY] is absent because of a death in his family.

Mr. SALTONSTALL. I announce that the Senator from South Dakota [Mr. GURNEY], the Senator from Iowa [Mr. HICKENLOOPER], the senior Senator from North Dakota [Mr. LANGER], the Senator from Oregon [Mr. MORSE], the Senator from Michigan [Mr. VANDENBERG], and the junior Senator from North Dakota [Mr. YOUNG] are absent by leave of the Senate.

The Senator from Indiana [Mr. JENNER] is necessarily absent.

The Senator from Massachusetts [Mr. LODGE] is absent by leave of the Senate on committee official business.

The Senator from New Hampshire [Mr. TOBEY] is absent by leave of the Senate on official business.

The VICE PRESIDENT. A quorum is present.

REORGANIZATION PLAN NO. 8

The Senate resumed the consideration of the resolution (S. Res. 254) as follows:

Resolved, That the Senate does not favor the Reorganization Plan No. 8 transmitted to Congress by the President on March 13, 1950.

The VICE PRESIDENT. The hour of 12:30 having arrived, under the agreement heretofore entered into the time between now and 2:30 will be equally divided between the opponents and the supporters of the pending resolution. No agreement has been entered into as to who shall control the time. Does the Senator from Colorado wish to make any suggestion?

Mr. JOHNSON of Colorado. I suggest that the time of the proponents be controlled by the senior Senator from Colorado and the time of the opponents by the junior Senator from Maryland [Mr. O'CONOR].

The VICE PRESIDENT. Without objection, the Senator from Colorado [Mr. JOHNSON] will control the time on behalf of the proponents of the resolution, and the Senator from Maryland [Mr. O'CONOR] will control the time on behalf of those who are opposed to the resolution.

Mr. WHERRY. Mr. President, may I ask unanimous consent to address an inquiry to the Senator from Colorado and the Senator from Maryland?

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. WHERRY. Has all time been preempted by Senators who desire to speak in favor of and in opposition to the resolution? If not, it seems to me that some time would be available for other matters. I make that inquiry because some Senators may wish to present routine matters for the RECORD. If time is not available they would have to wait until after the vote.

Mr. O'CONOR. It is expected that those who favor the President's plan and oppose the resolution will require approximately 1 hour.

The VICE PRESIDENT. Either the Senator from Colorado [Mr. JOHNSON] or the Senator from Maryland [Mr. O'CONOR] will be recognized at this time.

Senators may not insert matters in the RECORD now, except by being yielded to by either one of the two Senators who are in charge of the time.

Opportunity will be afforded later for the transaction of routine business.

Mr. O'CONOR. Mr. President, I yield myself so much time as may be required for the presentation of the statement I now wish to make.

The VICE PRESIDENT. The Senator from Maryland is recognized.

Mr. O'CONOR. Mr. President, if the reorganization plan about to be voted on and a majority of other plans are rejected, a great deal of the excellent work of the Hoover Commission will go for naught. Should such come about, it is stating but the simple fact that the greatest opportunity ever afforded for reorganization of the National Government is slipping away before the eyes of the American people.

It will be a national calamity if we fail to implement the greater portion of these splendid Hoover proposals. After the expenditure of 2 millions of dollars for their study and drafting by a nonpartisan commission of outstanding and experienced leaders, the Hoover Commission recommendations represent an outlay of time, of effort, and of judgment which probably can never again be duplicated in our lifetime.

Fortunately, the only living ex-President of the United States—and one who is not of the same political party as the present Chief Executive—consented to head the Commission. He and his associates gave unsparingly in this cause for better government. Now to fail to realize fully upon their work will mean that no similar organized effort can be renewed with any hope of success within the next decade. This is true because only by such a concerted effort and under such nonpartisan auspices could there be any reasonable hope or expectation of success.

To the credit of President Truman, it can be said that he has made a wholehearted and sincere effort to put into effect recommendations of the Commission. The people of this Nation will understand that the failure, if there be such, to adopt a majority of the Commission's conclusions will certainly be no fault of the present occupant of the White House. At this critical period, when the costs of Government and taxes are so burdensome to our country, it is no wonder that appeals have come from all parts of the country to improve the efficiency and economy of Government processes.

Mr. President, does the Government set-up need reorganization? It is not necessarily any criticism of any one administration to declare that as the result of expansion and of Nation-wide and world-wide developments, the National Government has long since outgrown the pattern which was established for it. To illustrate that, let me quote two statements—one from the late President Franklin D. Roosevelt, in 1937; and the other from the present Comptroller General of the United States, Lindsay Warren, in 1945.

In 1937 President Roosevelt wrote:

> The executive structure of the Government is sadly out of date. I am not the first President to report to the Congress that antiquated machinery stands in the way of effective administration and of adequate control by the Congress. Theodore Roosevelt, William H. Taft, Woodrow Wilson, and Herbert Hoover made repeated but not wholly successful efforts to deal with the problem. * * *
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> Neither the President nor the Congress can exercise effective supervision and direction over such a chaos of establishments, nor can overlapping, duplication, and contradictory policies be avoided. * * *
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> It has been common knowledge for 20 years that the President cannot adequately handle his responsibilities; that he is overworked; that it is humanly impossible, under the system which we have, for him to fully carry out his constitutional duty as Chief Executive because he is overwhelmed with minor details and needless contacts arising directly from the bad organization and equipment of the Government.

In 1945 Comptroller General Warren said:

> I say the present set-up is a hodgepodge and crazy quilt of duplications, overlappings, inefficiencies, and inconsistencies with their attendant extravagance. It is probably an ideal system for the taxeaters and those who wish to keep themselves perpetually attached to the public teat, but it is bad for those who have to pay the bill.

But when an all-out effort is made, as has been done under the present administration, to systematize and to coordinate the activities of various agencies and departments, we see special groups setting out to kill one by one the specific recommendations. Oh, yes; they are all for reorganization—except where it applies to the unit in which they are especially interested.

Confining our attention to the particular plan under consideration, what does it provide? First, that there shall be transferred to the Chairman of the Commission the executive and administrative functions of the Commission. Mr. President, let me repeat, if I may, that the primary purpose is to transfer to the Chairman the executive and administrative functions of the Commission.

These are defined so as to include (1) functions relating to appointment and supervision of personnel, (2) the organization of the Commission, and (3) the expenditure of funds.

Further, the plan expressly provides certain limitations on the Chairman, so that even if the Chairman is vested with this authority, he still will be subject to the control of the Commission. The plan also provides certain reservoirs of responsibility in the Commission. Thus it is expressly provided that in exercising any of these functions, the Chairman shall be subject to general policies of the Commission. This refers to the Commission's policies on administrative matters.

In addition, of course, the Commission retains full authority as to substantive determinations on any regulatory decisions and determinations. In other words, the quasi-judicial and quasi-legislative functions of the Commission are not in any manner touched or interfered with.

Then the plan expressly reserves to the Commission, as a whole, rather than the Chairman, certain specific administrative responsibilities, namely:

First. Approval of appointment by heads of major administrative units.

Second. Personnel employed in the immediate offices of the commissioners.

Third. Revising budget estimates and allocating appropriate funds according to major programs and purposes.

All those things, I repeat, are reserved to the Commission as a whole.

These three administrative responsibilities specifically reserved to the Commission are concrete examples of the over-all administrative control which remains in the hands of the Commission, namely, that whenever a matter of administration and administrative action is of such importance that the Commission regards it as a policy matter, then

the Commission may handle it as being a question of policy.

The third aspect of these plans is to make it clear that the Chairman is not himself required to handle these administrative responsibilities personally, but can delegate them as he finds appropriate—to an executive officer, a budget director, or a personnel chief, however the Commission is organized in an administrative way.

What, then, is the fundamental purpose of the plan? It is simply to promote and increase the administrative efficiency of the boards. These provisions basically carry out recommendation No. 1 of the Hoover Commission report on regulatory commissions, namely:

We recommend that all administrative responsibility be vested in the chairman of the commission.

There have been certain vague and indefinite charges that these plans strike at the independence of the regulatory commissions. But it must be borne in mind that the Hoover Commission and its task force, composed of very able and well-qualified men, deliberately considered whether or not independent commissions, bipartisan in character, with staggered terms, should continue to be maintained in the Government. In 1937 the President's Commission on Administrative Management had recommended that these commissions should be strictly limited to judicial decisions of cases.

But the Hoover Commission, like its task force on independent regulatory commissions, consisting of Mr. Owen D. Young and Mr. Robert R. Bowie, decided that such independent commissions had a definite place in the Government, and should be retained for both their quasi-legislative and quasi-judicial functions in various activities of the Government, where there is need for an independent commission, like the FTC in this particular instance, which can proceed, after careful deliberation and mature judgment to develop rules of fair competition applying generally to interstate industry.

The Hoover Commission, however, was interested not only in retaining the independence of these commissions, but in making the independent commissions operate more efficiently.

In order that there may be answered any question as to whether this is in accordance with the letter and spirit of the Hoover Commission's report, I shall quote from the report. On page 4 of the Hoover Commission's report is found the following subsection, relative to whether such a plan as President Truman sent to the Congress was needed. The Hoover Commission made these findings, which I quote from page 4 of its report:

d. The quantity of work in the regulatory field at the top level has been so great that the commissions have often neglected their promotional and planning functions.

e. Sufficient delegation to the staff has not occurred due to legislative restrictions as well as to poor internal organization.

f. Administrative direction has not developed within the commissions. Their chairmen are too frequently merely presiding officers at commission meetings. No one has been responsible for planning and guiding the general program of commission activity.

h. Unnecessary red tape has crept into their procedures causing useless delay and expense.

i. Coordination between these commissions and the general program of the executive departments is often loose and casual and sometimes nonexistent.

It is only common sense that when there are administrative matters to be attended to, as contrasted with substantive decisions, they are not handled best when given to a board, but are best handled when entrusted to a single man, either to be taken care by him directly or by someone reporting to him and under his supervision. That is a matter of plain, everyday common sense. It applies to every business enterprise and every Government agency.

But what about the other commissioners? Does this plan relegate them to nonentities in any way? By no means. Their basic regulatory responsibilities are not touched in any way.

Moreover, the plans leave the commissions with the power of taking up as a Commission those administrative matters which are really so important as to be matters of policy—say much matters as whether procedure in a certain case or certain types of cases leads to too much delay, or perhaps, on the other hand, goes so swiftly that the issues are not properly developed.

The reservation of the commission's power as to matters of policy in administrative matters completely refutes the charge that these plans make dictators out of the chairman. The commission has the authority to decide what is a question of policy.

A commission set-up not only does not make for efficiency in regard to these details, but the individual commissioners have their time taken away from the really important responsibilities.

This is not simply a matter of abstract analysis. The Hoover Commission found, for example, that the Federal Trade Commission, the very Commission we are now discussing, which has a system of rotating chairmen, at the time of the task-force survey, was giving consideration in commission meetings to such matters as "the organization of the stenographer's pool; mail-room procedure; appointment of junior professional personnel—and shortly before the FTC was also passing on all appointments—even clerical."

I submit, Mr. President, that such matters ought not to engage the attention of the entire Commission, but should properly be handled in a more businesslike way.

In the Hoover Commission survey it was found that the Commissioners were tending to employ their time in administrative matters, and that this was particularly true of those commissions where the chairman was not appointed by the President. I see no risk in having the President of the United States appoint the Chairman. The President has the power to appoint the Chief Justice of the Supreme Court of the United States, and I certainly think if he can be trusted to do that efficiently—as he can be, and as he has shown himself worthy to be—then certainly it is not suggesting too much to have him appoint the chairman of such a commission as this. Where the chairman is appointed by the commission itself he tends to be little more than a presiding officer at meetings. And, of course, commissions like the FTC, of which a new man becomes Chairman every year under a system of rotation, make it pleasant for the commissioners, no doubt, but very damaging to any administrative responsibility and supervision, although I hasten to say, and to add, in fairness to the present incumbent, that he is a very well-qualified man, who has done a splendid job in his position.

The President has established plans which are generally wise and well considered. They will tend to centralize administrative responsibility and leadership in the Chairman and to free the time of the individual commissioners for basic regulatory determinations and for such matters of administration as are matters of policy.

We, too, must think in terms of the general rule. It is unfair to the independent regulatory commissions to burden them with routine administrative detail work. The President's plan, in pursuance of the Hoover Commission's recommendations, is making an intelligent effort to improve the operation in this immediate connection. We should approve and endorse this and remaining plans of a similar nature to insure efficient operation of the various instrumentalities of Government.

The people of America are looking to Congress expectantly in these two final days of consideration of the President's first 21 reorganization plans of 1950. Much has been effectuated in the way of better administration of Government's functions as the result of the splendid studies and well-considered recommendations of the Hoover Commission. But in a government so far-flung in its activities, so all-inclusive in its ministrations to the needs of its 150,000,000 residents, much opportunity still remains for improved efficiency and resultant economy.

Yes, our people are looking expectantly to Washington today. Indeed, no one in this distinguished body can be forgetful of the interest which the people of the United States have shown in the work and in the objectives of the Commission so ably and successfully headed by former President Herbert Hoover and his associates.

The thousands upon thousands of letters and communications of every sort which have poured into the offices of Senators and Congressmen alike from every section of the land could leave no possible doubt in anyone's mind about the feelings of our citizenry with regard to the work of the Commission.

They want to see more efficiency in government. They want the cost of government reduced. They realize that, sprawling and ungainly as the vastly expanded framework of the Federal structure has become, it necessarily has developed practices which, through lack of planning, are at variance with all established rules of business procedures.

The citizens of America have grown restive under the heavy burden of Gov-

ernment taxation. They want that burden of taxation lightened. They see, rightly, in the recommendations of the Hoover Commission a well-considered procedure by which many of the deficiencies, the overlapping, the unneeded personnel of present Government activities may be eliminated. They are looking to the Congress for approval of these ceive congressional approval?

Particularly where the President's reorganization plans are patterned directly after the Commission recommendations, as is the case in the plan now being discussed, do our people have a right to expect that the plans will receive congressional approval.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. O'CONOR. I yield to the Senator from Illinois.

Mr. LUCAS. I presume the Senator from Maryland has received communications from Dr. Johnson, president of Temple University, and chairman of the Citizens' Committee of America, urging the approval of these reorganization plans. I have been trying to find a letter or a telegram which I received from him on last Saturday, expressing, as I recall, keen disappointment because of the failure of the Senate to approve the two plans which were disapproved last week. It seems to me, Mr. President, that Congress ought to give a considerable amount of weight to the recommendations of the Citizens' Committee, especially so in view of the unusual personnel composing that committee, and also in view of the unusual study which the committee has given to all the reoganization plans.

I agree with what the Senator from Maryland has said, and I certainly hope the Senate will approve this plan and all the remaining ones. I sincerely hope we may approve the other plans, if we are really interested in reorganizing the Government from the standpoint of economy and efficiency, which, of course, are the basic reasons for all the plans.

Mr. President, I undertake to say that the people of the country will be tremendously disappointed if the Senate continues to knock out one plan after another. Practically every chamber of commerce in Illinois has written requesting that Senators go down the line with respect to approval of all the plans. It is only from individuals or groups vitally affected by the respective plans that we are receiving criticism of them. There is always some group which seems to be affected as the result of the approval of the plans.

Mr. President, if we do not succeed in bringing about reorganization at this particular time with reference to the agencies which have been created by Congress, it will be a long, long time bebefore we ever get around to it again. We have been trying since the days of Theodore Roosevelt to effectuate reorganization, and the present opportunity should not be lost.

Mr. O'CONOR. I should like to observe with reference to the statement of the able majority leader, with which I agree entirely, that Dr. Johnson's group, of course, endorsed unqualifiedly the President's proposal, and representatives of that group appeared before the committee to give all-out approval. I may say, in line with what the Senator from Illinois has just stated, that other groups in various States operating under the Johnson committee have endorsed and are wholeheartedly in support of the plans. We have received comments from chambers of commerce in various States, all of whom have gone on record as approving this particular plan.

Mr. President, I yield the floor.

Mr. BENTON. Mr. President, because I have been working as a member of the Committee on Expenditures in the Executive Departments and have made three previous talks about Government reorganization on the floor of the Senate—dealing with Reorganization Plans Nos. 1, No. 7, and No. 12—I feel impelled to make one more. I wish to bring out some points which have not been previously emphasized. Some points have come to me belatedly, as I explained to the Senator from Colorado [Mr. JOHNSON] last week. If they had come to me earlier I would have better understood why the first five plans to reach the floor were knocked off so easily, as the Senator from Illinois [Mr. LUCAS] has just pointed out. Indeed, Mr. President, the first five have been knocked off like clay pigeons in a shooting gallery.

In my previous remarks I have referred to the activities of bankers, lawyers, railroads, and other private groups touched on by the able majority leader, in opposition to Government reorganization because of their fears for their own special and vested interests. I have spoken of the kind of opposition which influenced the committee's decision to report resolutions unfavorable to several of the President's reorganization plans or to report others without recommendation.

As quick and easy evidence of the kind of opposition which influenced the committee's decision to report resolutions unfavorably, or to report them without recommendation, I again cite the testimony of the representatie of the patent committee of the National Association of Manufacturers. I quoted this testimony in a speech on the floor of the Senate dealing with Reorganization Plan No. 12, at page 6951 of the CONGRESSIONAL RECORD. I refer to this testimony once more as a clear and striking example of what the Congress is up against in its consideration of the work of the Hoover Commission.

I have previously pointed out how witnesses before the Committee on Expenditures in the Executive Departments have solemnly and piously attested to the fact that they favored Government efficiency and economy, and how they favored it everywhere except when it touched them.

The issue as to Plan No. 8 which is now before the Senate is as clear as have been the issues of similar reorganization proposals submitted by the President. The issue involved stems from the recommendations of the Hoover Commission that administrative responsibility should be vested in the chairmen of regulatory commissions and from the taskforce recommendation that the President should name the chairmen. The main issue is as simple as that.

The vocal opopsition to this plan and all the reorganization plans comes from vested groups which do not see the problem of Government efficiency as a whole and which are prepared, thoughtlessly or heedlessly, to sacrifice the public interest for what they often mistakenly, in my view, deem to be in their own selfish and narrow interests.

Furthermore, Mr. President, witnesses often claim to speak for groups which they do not truly represent, or for groups which, at any rate, have heard only one side of the question, and which, in my opinion, would favor the proposals if the many complex issues were adequately presented to them.

Mr. President, five of the reorganization proposals have now been disapproved by the Senate. They are five out of the six on which the Senate has voted. This record is so disheartening to those who favor Government reorganization for the purpose of efficiency as well as of economy that I want to review briefly some of the causes, as I see them, which have not been previously discussed on the floor, and which I have decided account for the failure of the Senate to vote constructively on these plans. I think these causes need to be far more widely understood if we are to make progress in this difficult area.

I pause for a moment before I go into these causes to say that I disagree with those who, while admitting that some of the reorganization plans will achieve greater efficiency, deny that the factor of economy is involved. I disagree, because we cannot have greater efficiency without the promise of work better done, or work more cheaply done, or both. We must get economy in one way or another if we get efficiency. Many of those, Mr. President, who oppose progressive measures in the field of human welfare because they feel we cannot afford them in light of our unbalanced budget and in light of the costs of the cold war, are failing to support the reorganization proposals of the Hoover Commission which offer great opportunities for efficiency and economy.

I hope I am making it clear that I am for the reorganization proposals because I favor Government economy as well as Government efficiency, and if we cannot unite on economy through the elimination of Government waste, where are we legitimately to begin?

Mr. President, why is it that we in Congress are failing to stand up against the rich and powerful lobbies? I think there are three major underlying causes and two further subordinate causes, and I shall discuss each of the five causes briefly in turn.

First, I regret to admit that the preparatory work which is so necessary to assure favorable consideration by busy Members of Congress on important issues of this kind, was not adequately done prior to the submission of the 21 reorganization plans 59 days ago. The Government agencies concerned which should have been representing the public interest in these matters did not do the neces-

sary ground work with the Congress which must be done on problems of this kind. I have the very highest regard for the Bureau of the Budget, and, under Mr. Lawton's leadership, it has been superb in its testimony before the Committee on Expenditures in the Executive Departments. I should like to ask unanimous consent to have inserted in the RECORD at the end of my remarks the letter from Mr. Lawton, Director of the Bureau, which disposes of false allegations that Reorganization Plans 7 and 8, the ones which we are now considering, or plans 9 and 11 would impair the provisions of the Administrative Procedure Act. This letter is representative of the splendid staff work of the Bureau of the Budget. Such brilliant work, however, does not offset the unfortunate way in which these plans came to the Congress. I do not know who was responsible. I only learned of this background in the past week, and it has been very illuminating to me as to why five plans have been so easily knocked over.

The PRESIDING OFFICER (Mr. HOEY in the chair). Without objection, the letter submitted by the Senator from Connecticut will be printed in the RECORD.

(See exhibit 1.)

Mr. LONG. Mr. President, will the Senator yield?

Mr. BENTON. I yield.

Mr. LONG. Does the Senator know why any one of these commissions could not give its chairman all the powers which would be given to the chairmen of the various commissions by the plans by merely adopting a resolution at any time, and without the necessity of Congress passing a law providing for such power.

Mr. BENTON. I think the Senator from Maryland [Mr. O'CONOR] is better prepared to answer that question and I should like to ask him to answer it if he heard the question of the Senator from Louisiana.

Mr. O'CONOR. I heard the question. Certainly we do not think it would be desirable, not only because of the lack of uniformity which such a practice would entail, but particularly because it would not give legal responsibility to the Commission. It would be a policy which could be changed at will. Therefore, it would not be static and would not accomplish the same objective.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. BENTON. In further answer to the question of the Senator from Louisiana, manifestly it is not possible to obtain any kind of uniformity, or the efficiency or understanding which comes from uniformity in 11 different commissions under a practice by which each finds for itself.

Mr. LONG. Mr. President, that is the point I was coming to. If Congress gives the chairman of a commission the power and hire and fire, saying what person will do what, whether a certain person is to be hired, or another person is to be discharged, the commission would have no say in the matter. On the other hand, if a commission gives that power to its chairman, it can withdraw the power if he abuses it or refuses to follow the will of the commission. However, if Congress gives the chairman such power, the commissioners have no say-so if he refuses to follow the policy of the majority members of the commission.

Mr. BENTON. From the standpoint of administrative policy, Mr. President, it seems to me the answer is that the various commissioners have too much so-called administrative say-so. Without fixed responsibility, they log-roll back and forth, trade back and forth, and they bog down on administrative details. It has been my conclusion, after listening to the testimony before the committee, that we would get much better and higher type of men on these commissions if they were rid of administrative problems and details and if the question of hiring and firing of administrative personnel, for example, were clearly turned over to the chairman so that the commissioners could apply themselves to questions of high policy.

Mr. LUCAS. Mr. President, if the Senator from Connecticut will yield, I wish he would advise the Senator from Louisiana, as he did the Senate last week in making an address upon one of these plans, the number of Government agencies to which the Congress of the United States has granted full power and authority to the chairman to do the very things which the reorganization plans seek to have them do.

Mr. BENTON. Mr. President, I am very glad to have the opportunity to do so for the benefit of the Senator from Louisiana. Of the nine regulatory agencies, in the case of five, as I recall, Congress has given this authority to appoint the chairmen to the President. However, we are not dealing with all nine agencies. We are dealing one by one with the remaining four agencies, and the recommendations are based on the experience of greater efficiency in administration which has been gained in the other five agencies.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BENTON. I yield.

Mr. LONG. Mr. President, will the Senator list the first six agencies in which the President appoints the chairmen and these powers are vested in the chairmen?

Mr. BENTON. I am told that I must correct myself. There are only five. In the sixth he has seemingly been given tacit power to appoint the chairman. The five agencies in which Congress has given the power to the President to appoint the chairman are the FCC, the Civil Aeronautics Board, the National Labor Relations Board, the Maritime Commission, and the Federal Reserve Board. I am told that in practice that has been true also with respect to the Securities and Exchange Commission, because the Commissioners, at the suggestion of the President, have confirmed his selection of the chairman.

Mr. LONG. The Senator mentioned the FCC. Is not the FCC an agency in which the President designates the chairman and the Commission itself gives the chairman the authority which the Senator is speaking of?

Mr. BENTON. There are two questions involved: First, the presidential designation of the chairman, and secondly, the question of responsibility for administrative authority vested in the chairman. There are variations within the various commissions with respect to administrative responsibility.

Mr. LUCAS. I wish to refer again to what we did last week with respect to the Federal Communications Commission, the chairman of which is designated under the law by the President of the United States. All we were attempting to do in that reorganization plan was to transfer functions to the chairman word for word in line with what had been recommended by the Hoover Commission.

Mr. BENTON. That is correct. Administrative functions only.

Mr. LUCAS. That is correct. It seems to me when the Senate defeated the plan for the reorganization of the Federal Communications Commission it absolutely and completely ignored the recommendations made by the Hoover Commission, the recommendations made by the task force, and the recommendations made by the President of the United States.

That is what I am complaining about, so far as the reorganization of the Government is concerned. In other words, Senators who are relying solely upon the objection to the transfer of power into the hands of the chairman of one of these agencies could not fall back on that objection in the case of the Federal Communications Commission, because heretofore Congress had granted and lodged all the necessary power in the chairman. That had been done by congressional act.

Mr. BENTON. I am glad the distinguished majority leader has pointed out that fact, becaues the case of the FCC is a very easy case to understand, inasmuch as the President already had the power to appoint the chairman. The only comment I might make on the remarks of the distinguished Senator from Illinois is that some people misunderstand the word "power." Indeed, what is proposed to be transferred to the chairmen of the respective commissions is not power in any real sense of the word, over important policy functions of the commissions. It is merely authority, rather than power, over administrative procedures, many of which are largely routine and detailed.

Mr. JOHNSON of Colorado. Mr. President, a point of information.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSON of Colorado. How much time does the Senator from Connecticut have remaining?

The PRESIDING OFFICER. The Senator from Connecticut has 22 minutes.

Mr. BENTON. I am very grateful for the question of the Senator from Colorado, because I should like to continue with my remarks. If any time is remaining when I have concluded I shall be very glad to yield for questions. I was saying, Mr. President, that this brilliant work by the Bureau of the Budget does not offset, unfortunately, the way in which these plans came up to

the Hill. I was remarking that I did not know where the responsibility lay. However, I hope that better understanding of what has gone on may help us now to pause and reconsider this problem before we knock over another five of these Government reorganization proposals.

I have learned that the 1950 reorganization plans, when first sent to the Capitol 59 days ago, not only came up as a batch of 21, but that the key and influential and powerful Senators who were most concerned with these proposals and the departments affected by them had not been exposed to the complex questions involved.

Mr. President, in many cases they had not even been talked to about these proposed reorganization plans. In all too many cases the first they heard about the problems affecting their special and particular interests—and often an interest they had had over a long period of time—was from the opponents of the reorganization measures.

Thus, to use Reorganization Plan No. 1, the Treasury Department, as an example—and it is a very good example—the banks presented their case in opposition most vigorously to many Members of the Senate whereas no one had previously presented the powerful case for reorganization. The Bureau of the Budget had not first presented the case, but, more important than that, the Treasury had not presented the case.

All that many Senators ever heard about plan No. 1 was the proposed effect on the Comptroller of the Currency, and, like the bankers themselves, as the testimony of Mr. Peterson, the president of the American Bankers Association, showed, they thought that this was all there was to this major plan. Indeed, Mr. President, how could Senators have been expected to know or to keep in mind the fact that the personnel of the Comptroller of the Currency constituted only 1.3 percent of the total personnel involved?

Many Senators, I have discovered, committed themselves to the banks—and I will ask my colleagues please to continue to keep in mind that they had little other information on which to proceed except the information furnished them by the banks—and they agreed to oppose the reorganization of the Treasury. Indeed, was it not plausible to agree with the banks when they were seemingly unanimously in agreement in their opposition to this reorganization proposal, and no one seemingly was disagreeing with them, or pointing out the other side of the argument? Senators did not have the evidence to guide their thinking about the over-all problem, not only as it affected the Treasury Department but as it affected the entire question of the attitude of the Senate toward the other 20 reorganization proposals.

Not only was the Senate largely unprepared for these 21 proposals—the Committee on Agriculture and Forestry, let us say, for the proposal affecting the Department of Agriculture, which has been voted down, or the Committee on Interstate and Foreign Commerce, let us say, for the proposal affecting the Interstate Commerce Commission, which has also been voted down—but, and this is even worse, there have been instances of officials of the administration who are to be affected by the plans not being vigorous in their support of them. Indeed, such instances have been far too frequent.

To continue my illustration of plan No. 1, Secretary Snyder, of the Treasury Department, certainly one of the ablest and most experienced men of the administration, himself agreed with the banks, and wrote a letter so stating. This, I think Senators will agree, was enough to discourage even the most ardent supporter of Reorganization Plan No. 1.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. BENTON. I would like to yield, but I have just been warned by the Senator from Maryland [Mr. O'CONOR] not to yield because my time might run out. If I can secure additional time, I should very much like to yield when I conclude my remarks.

Mr. AIKEN. I withdraw the request. I assure the Senator from Connecticut I was not rising to disagree with him.

Mr. BENTON. I shall try to cut my remarks short so that I will have time to yield.

The effect of Secretary Snyder's letter, however, was worse than merely the effect on the Treasury Department reorganization though this secondary effect has not been generally understood. As I stated at the time, the rejection of plan No. 1 set a very unhappy precedent. It showed how easy it was to defeat these plans. The rejection encouraged other vested groups to move in aggressively. May it not even have affected former President Hoover himself? With the Secretary of the Treasury in opposition, when should Mr. Hoover or any one else fight a hopeless fight for a lost cause? With only 13 votes in support of Reorganization Plan No. 1, it is not to be wondered at that opponents of the other reorganization proposals, both in the Government and out of it, proceeded with their opposition with renewed vigor and also without thought of the serious consequences of their attitudes to reorganization as a whole.

Mr. President, if these 21 Government reorganization proposals had had skilled and determined leadership in the presentation to Congress, so that, department by department and issue by issue, the influential Senators had been given the information and the facts so that understanding could have been achieved, it is my opinion that they could have been put through, or at least that a far higher proportion of them would have been approved.

Mr. President, this is my first point. This was strike one against the public interest. My other points are much briefer and more quickly stated.

My second major point is that these plans have lacked effective support within the Senate itself, although both major parties have declared themselves in favor of Government reorganization. I do not refer to our majority leader, whose eloquent voice has been heard again and again in support of the reorganization proposals, urging greater efficiency in government. But he has had very little help from the Senate's great and powerful voices in both parties.

My second point is a close corollary of my first. Democrats and Republicans alike have joined together to defeat these plans.

The distinguished senior Senator from Ohio [Mr. TAFT] led off on the first assault against the first plan. When it was easily knocked over, that, of course, encouraged all the groups to come forward, each in its own turn, to go after the other plans.

The distinguished senior Senator from Arkansas [Mr. MCCLELLAN], the chairman of the Committee on Expenditures in the Executive Departments, has himself attacked on the floor many of the plans under consideration. The committee has rejected many of the plans, and has reported several more without recommendation. On Reorganization Plan No. 7 the junior Senator from Minnesota [Mr. HUMPHREY] and I were its only vocal defenders. On Reorganization Plan No. 4 not one single voice was raised in the Senate in defense of the reorganization of the Department of Agriculture. Not one voice. I was absent from the floor when the vote took place Thursday afternoon, meeting with the Committee for Economic Development at its semiannual meeting here in Washington. Had I been here I would certainly have joined with the distinguished senior Senator from West Virginia [Mr. KILGORE], who, according to the papers, cast a single vote of "no" against the resolution of disapproval.

The relative absence of veteran and influential congressional leadership unequivocally favoring Government reorganization on either side of the aisle again shows how appealing and unglamorous this subject is. No Government organization chart ever made a best-seller list. There is more excitement in Congress over daylight saving time. However, though reorganization is not newsworthy, it has wide appeal, as the courageous support of the New York Board of Trade, some of the local Leagues of Women Voters, the Junior Chamber of Commerce, and other organizations attest. I may be lonely here on the floor of the Senate in my support of these reorganization proposals, but I have not been lonely as far as those groups which take an active interest in better government are concerned.

Mr. President, if the reorganization proposals had had the same organized and influential support on the floor of the Senate which was accorded the natural gas bill, merely to take one example, there is no doubt, in my judgment, that all the reorganization plans would have been easily approved.

Thus here is a second area through which government reorganization might have been achieved. Here we have a second "horse" which failed to come in. Or, to put it another way, this was strike 2 against the public interest.

But there is a third major point, Mr. President. The third point is the failure of the millions of citizens throughout the

country who favor these proposals, and the failure of their leaders and spokesmen to make their voices heard by the Congress.

The Citizens Committee for the Hoover Report, under the chairmanship of my old and good friend, Dr. Robert L. Johnson, has not had the time or financial means to organize on a broad scale everywhere throughout the country.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BENTON. I would prefer not to yield now. I shall be glad to yield at the conclusion of my remarks if I have time left to do so. I hope I may finish in time to be able to yield.

The Citizens Committee had issued some splendid press statements, and, Mr. President, I ask unanimous consent to have printed in the RECORD at this point the press release issued by the Citizens Committee for the Hoover Report on April 25, 1950, dealing with Reorganization Plan No. 1.

The PRESIDING OFFICER (Mr. HOEY in the chair). Without objection, it is so ordered.

The release is as follows:

WASHINGTON, D. C., April 25, 1950.—Dr. Robert L. Johnson, chairman of the Citizens Committee for the Hoover Report, today warmly commended Senator WILLIAM BENTON's stand on President Truman's Reorganization Plan No. 1, providing for reform of the Department of the Treasury to accord with the recommendations of the Hoover Commission. "The action of the Senate Committee on Expenditures in the Executive Departments recommending that the Senate approve Senate Resolution 246 to prevent Reorganization Plan No. 1 from becoming law endangers the whole program of Government reorganization, as recommended by the Hoover Commission," Dr. Johnson said.

"Senator BENTON saw clearly when he said in his minority report dissenting from the Committee's action: 'I concur with the Citizens Committee that plan No. 1 is clearly in accord with the recommendations of the Hoover Commission. Its disapproval would further encourage group pressures from all sides.'

"Senator BENTON was correct when he said further, 'in its report on the Treasury Department, the Hoover Commission urged that the Secretary of the Treasury be given authority to organize the Department to adjust further and efficient departmental administration. The question is whether he shall or shall not be given this needed authority'."

"Senator BENTON's dissenting report showed a statesmanlike grasp of the true situation when he said: 'The opposition on the part of the banks, it seems to me, stems partly from lack of study and thought about the over-all problem, and partly from deep and very real mistrust of our democratic processes of government. The banks are the trustees of the people's money and their responsibilities train them to take a dim view of the future and of mankind in general. A good banker must train himself to try to foresee the dark contingencies which may lie ahead. But it is not the business of Congress to set its policy keyed primarily to fears of future black-outs. The Congress must assume that the democratic process will operate successfully. Such black-out fears, if translated into operation of other bureaus of the Government would enormously intensify the present great confusion and waste and inefficiency period. They would make the Government even more unmanageable than it is today, far more inefficient, far more confused and confusing. That must be resisted. This is a good place to resist.'

" 'The Congress, I hope, will have sufficient confidence in the American people and their elective officers to entrust to those officers the responsibilities which are so clearly those under the Constitution. If the Congress turns down Reorganization Plan No. 1 according to the Citizens Committee for the Hoover Report, the entire reorganization program of the President might well be wrecked.' "

"Piecemeal nibbling at the whole structure of the Hoover Commission recommendations must be opposed with all the energy and vigilance we can contrive," Mr. Johnson said. "The Commission made its recommendations after the most exhaustive and painstaking study ever made of government. Its findings represent the best thought of experts and leaders in many fields of public and private activity. Congress and our citizens must act firmly and courageously to see that the Commission's whole program is put into effect if we and our children are to have the more efficient and more economical Government which our position in the complex world of today urgently demands."

Mr. BENTON. The citizens committee needed to set up hundreds of local committees, each in its turn working with local organizations and marshaling their support so that their voices would be heard by their representatives in Congress. The citizens committee has had neither the time nor the money to learn how to operate itself as a powerful and well-organized group—powerful enough to offset the pressures of the National Association of Manufacturers, the railroads, the lawyers who practice before the various regulatory agencies, and others.

Former President Hoover, himself, perhaps discouraged by what he sees here in Washington, has largely withheld his vigorous and continuing support. He has failed to respond to the urgent plea from the floor of the Senator from New Hampshire [Mr. TOBEY], and to the Senator's telegram which asked him "to speak out in clarion tones" because the whole reorganization program faces an acute crisis.

Seemingly authentic reports have come to me that Mr. Hoover has even opposed behind the scenes one or more of the reorganization proposals. This, of course, has cast a shadow over all the others. Although there were 12 members of the Hoover Commission, they no longer function, and where, indeed, are the other 11? Former President Hoover, with his great prestige, seems to represent them all and his attitude has been disheartening to the supporters of the recommendations of his great Commission. Mr. Hoover's equivocal position has given an easy excuse to those who want to listen to the voices of the vested interests which are stridently clamoring for the rejection of the reorganization proposals. The whispered word across the floor of the Congress that "Mr. Hoover opposes this one" or that "a high official connected with the Hoover Commission tells me that we should vote against that one"—this grave weakness of public leadership has undercut the limited and inadequate public support which the citizens committee has been able to marshal.

Thus, Mr. President, the ball zoomed past for strike three, and with the exception of a few groups such as that led by President Johnson, of Temple University, the bat never left the shoulders of the public supporters of the Hoover Commission's proposals.

If the public-interest groups favoring governmental reorganization could have made themselves felt—if adequate public and nonpolitical leadership had been forthcoming to arouse the public to the true situation—it is my opinion that these plans would have met with the approval of the Senate rather than so easily and readily, as I have said, have been knocked over like so many clay pigeons in a shooting gallery. This whole episode thus far has been a kind of trapshoot—with different pressure groups taking a turn to pulverize each target as it went sailing past.

Now I have described three different fronts which account for our failure so far. If the story had been different on any one of the three fronts, we might have succeeded, but so far we have had three horses in a three horse race, and not a single one of the horses could come in. If any one of the three had proved to be a good horse the race for reorganization would have been very different.

When I say we have failed, Mr. President, I mean that we the people of the United States have failed to achieve the greatly needed reorganization of the Federal Government.

However, there are two subordinate reasons which help account for the failure, and I desire to cover them very briefly. Were it not for these two subordinate reasons, we might have failed on three fronts and yet have achieved a far better record of progress than we have.

First—and it is an obvious reason—this is a political year and it is not to be wondered at that Congress has its eyes on next November. There is no doubt that political motivations account for a considerable percentage of the votes cast against the reorganization proposals. Had these proposals come before a new Congress, in its first few months, instead of before an old Congress, in its last few months, I feel that the fate of some of them would perhaps have been different, in spite of lack of leadership from the Government departments; from the Congress; or from the public.

There is also a second subordinate motif—and this is my fifth point—namely the current debate on the FEPC bill. Antagonism to this bill and to the President's civil rights legislation—yes, antagonism to the President himself because of his courageous leadership on civil rights—I believe accounts for at least some of the votes against the reorganization proposals. In particular, I call attention to the record of voting on Reorganization Plan No. 11, affecting the FCC. In this case, Mr. President, had only two Senators—2 out of the 50 who supported the resolution of disapproval which killed the efforts to reorganize the FCC—had only 2 Senators voted with the 13 who favored the support of the reorganization, and who responded to the eloquent leadership of the majority leader, the FCC plan would not have been disapproved. This vote,

the Senate will recall, came at the end of a long day, a part of which was devoted to bitter and acrimonious debate on the pending FEPC bill.

Mr. President, I bring these five points out at this time because I hope it may at some future time prove helpful if I now record my observations on the present efforts to reorganize the Government. Next year, I hope, the torch will be picked up and carried forward. Efforts to reorganize the Federal Government should be continuous. I know they will be taken up with renewed vigor in the next Congress because they have the unequivocal support of President Truman. I hope that in the next Congress they will secure more thoughtful and aggressive determined support from the officers and members of the President's administration, and that the bureaus and departments which are affected will present the case far more thoroughly to the Members of the Congress.

I hope that, with continuous renewed and more widespread public support, there will be more Members of Congress who will achieve a better understanding of these complex issues and who will stand up and be counted on them, even in the face of the pressure groups which can always be counted on to oppose any change which even faintly threatens their own interests, as they conceive these interests.

Mr. President, I would like to hope that the Senate will now salvage what remains of the Hoover Commission recommendations and the President's reorganization proposals. Because we have refused to reorganize the Interstate Commerce Commission, it does not follow we should refuse to reorganize the Federal Power Commission or the Federal Trade Commission. Let us refuse to take the Commerce Commission as our awkward and confused model. Because we have refused to reorganize the Department of Agriculture, let us not refuse to bring efficiency to the Department of Commerce. Merely because we have yielded on the bankers on plan No. 1 it does not follow that we need to yield to the patent attorneys on plan No. 5.

I, therefore, conclude my comments, Mr. President, with a plea that we reject the motion of disapproval now before the Senate, and the remaining motions on which we are to vote between now and tomorrow.

In these four speeches, I have done the best I can to present the issues as I have seen them based on considerable background and experience in the administrative branch of the Federal Government—an experience in which very few Members of the Senate have had—and based on the varied background in administrative activities both in business and in education. I hope I shall be able to console myself with the hope that my efforts to clarify the issues may perhaps prove helpful to those who will return to this never-ending fight for reform and efficiency—in the next session of Congress—and the next—and the next—and again—and again—and again.

If I have time remaining, Mr. President——

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. BENTON. I am glad to yield to the Senator from Louisiana [Mr. LONG].

Mr. LONG. Mr. President, the Senator spoke of the persons who have written to us about the reorganization proposals. Let me say that almost all the mail I have received has come from persons who have asked the Senate to vote for the Hoover report and for the Hoover Commission recommendations.

I wonder whether the Senator has been impressed, as I have been, with the fact that most of the plans which have been submitted to the Congress by the White House have contained a little bit or dash of Hoover Commission seasoning with a lot of White House legislative proposals, but the plans which have been submitted do not provide for putting into effect the Hoover Commission's recommendations in full. To the contrary, the plans which have been submitted include a little bit of the Hoover Commission's recommendations, to which are added a great many things about which the Hoover Commission never thought or never made any recommendations.

Mr. BENTON. Mr. President, in my judgment, that is a fallacy. Many of the plans do not go so far as the Hoover Commission recommended. That is the situation in case after case. I think the statement the Senator has made is an illustration of the lack of consideration which has been given by the Senate of the United States to these important questions.

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

EXHIBIT 1

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 9, 1950.

Hon. WILLIAM BENTON,
United States Senate,
Washington, D. C.

DEAR SENATOR BENTON: I have given attention to your communication regarding certain of the adverse testimony which has been presented in the hearings on Reorganization Plans Nos. 7, 8, 9, and 11, of 1950. I understand that one of the principal allegations made against the plans is that they would impair the operation of the provisions of the Administrative Procedure Act.

As I have previously testified, there was no intention in the development of these proposals to diminish in any way the safeguards provided by the Administrative Procedure Act. The whole question of the effect of these plans on the Administrative Procedure Act was explored at some length, and I would like to make the following points for your information.

1. Nothing in the reorganization plans nullifies or dilutes the provisions of the Administrative Procedure Act. In expressing this opinion, I am also stating the views of the Department of Justice. To contend that the plans do change the Administrative Procedure Act, it would be necessary to argue that section 12 of the act does not apply to these reorganization plans. Section 12 states: "No substantive legislation shall be held to supersede or modify the provisions of this act, except to the extent that such legislation shall do so expressly." You will note that there is no expressed reference in plans 7–13 to the Administrative Procedure Act. Both as a matter of legal interpretation and as a matter of administrative policy, it is my considered judgment that the provisions of the Administrative Procedure Act are as much in force and will be as much in force with respect to the regulatory agencies concerned, following the taking effect of Reorganization Plans 7–13, as they are today.

2. You are aware that in Reorganization Plans 1–6, which transfer authority to the heads of executive departments, an exemption is made from this transfer for the functions of the hearing examiners appointed pursuant to the Administrative Procedure Act. Reorganization Plans 7–13 do not contain this exemption. This has been seized upon by some to indicate that it is the intention of plans 7–13 to abrogate in some way the functions of the hearing examiners. However, there was a basic difference in these two groups of plans which made it necessary to use difference provisions to preserve the functions of hearing examiners.

(a) Plans 1–6 transfer to the department head the functions of all officers and employees of the departments concerned, whereas plans 7–13 contain only a limited transfer of certain functions of the commission or board itself to the chairman thereof. Consequently, it was necessary in plans 1–6 to exempt hearing examiners since their functions would have otherwise been affected by the specific wording of the plan. However, in plans 7–13 the functions of the hearing examiners are not affected, and they were therefore not mentioned in the wording of the plan.

3. One effect of Reorganization Plans 7–13 is to transfer to the Chairman the authority to appoint the personnel of the Commission and to distribute the work of the Commission among the employees under the jurisdiction of the chairman. The contention has been made that the chairman, using this authority, will be able to so influence the hearing examiners that they will develop a loyalty to him and his views, and fail to retain an impartial attitude toward the interests of the entire Commission in the conduct of their legislative duties. I would like to note at the outset that this implies an attitude and objective on the part of the chairman which I think is entirely unjustified. Further, it views only the literal language of a plan in an extreme way without giving equal consideration to the practical deterrents to arbitrary and capricious action which are as valid, if not more valid factors, than the language of the plan itself.

Having made this observation, in this particular case there are several specific safeguards in the law and in the announced policy of the President which render this allegation baseless.

(a) All hearing examiners must first be qualified by the Civil Service Commission and then selected by the agency head concerned in accordance with procedures established and enforced by the Civil Service Commission. This in itself provides a strong safeguard against political considerations in the choice of hearing examiners.

(b) A hearing examiner cannot be removed by an agency head without the approval of the Civil Service Commission after hearing.

(c) The Civil Service Commission is likewise involved in the consideration of the classification and promotion of hearing examiners.

(d) The Administrative Procedure Act provides that, to the extent possible, examiners shall be assigned to cases on the basis of rotation.

These safeguards are not matters of administrative regulation but are contained in section 11 of the Administrative Procedure Act, which, as I have stated above, will continue in effect, regardless of the reorganization plans.

It is unlikely that the Chairman would be immediately concerned with the assignment of hearing examiners, since they, in most cases, would report directly to an intermediate official who in many commissions would be a head of a major administrative unit, and in accordance with the plan would have been appointed with the approval of the

entire Commission. Over and beyond this fact, the work of the hearing examiner would be reviewed not by the Chairman alone but by the full Commission or divisions thereof, and thus any attempt by the Chairman to influence a hearing examiner's report would become apparent to his colleagues.

The point of the Administrative Procedure Act is that the hearing examiners shall be removed as far as possible from supervisory pressure whether they report to a single individual or to a multi-headed Commission. Interference by a Commission with the objectivity of a hearing examiner's work would be no less reprehensible than would be interference by a single individual. The commissions today hold collectively the same responsibilities and authority affecting the hearing examiners as would be transferred to the Chairman. Thus, there is no new element introduced into the hearing examiner-commission relationship.

You will recall that plans 7–13 uniformly provide that "In carrying out any of his functions . . . the chairman shall be governed by general policies of the commission and by such regulatory decisions, findings, and determinations as the commission may by law be authorized to make." In the message of the President transmitting the plans it was stated: "The fact that under these reorganization plans the commissions retain all substantive responsibilities deserve special emphasis. The plans only eliminate multiheaded supervision of internal administrative functioning. The commissions retain policy control over administrative activities since these are subject to the general policies and regulatory decisions, findings, and determinations of the commission."

I have cited these two statements since, in my view, they indicate that the chairman in dealing with hearing examiners, to the extent that he would be involved in assignment of work or other subjects, would be governed by whatever general policies the commission itself had determined should guide his activities in these respects. This is a point which has not been given sufficient consideration by those who charge that the plan opens up an opportunity for arbitrary action by the chairman.

4. As you know, the Civil Service Commission plays an important part in the administration of the Administrative Procedure Act. I have, therefore, discussed the subject of this letter with the Commission and am authorized to indicate their views in the following manner:

(a) The Commission agrees with the position expressed here and concurred in by the Department of Justice that the plans would not set aside the operation of the Administrative Procedure Act in respect of the agencies concerned.

(b) In performing their functions under the Administrative Procedure Act the Civil Service Commission today deals with a number of departments and agencies, all of which are presided over by a single secretary or other head. The authority of each such head would appear to be greater than any authority of a chairman under the reorganization plans. Probably about 50 percent of all hearing examiners employed under the Administrative Procedure Act are employed in departments and other agencies headed by a single official.

(c) One of the broad purposes of the Administrative Procedure Act is to provide an impartial approach to quasi-judicial and quasi-legislative matters and to exclude extraneous matters, and nothing in the reorganization plans will militate against the attainment of this.

I hope that the points listed above will be helpful in clarifying the questions which have been raised against these plans.

Sincerely yours,

F. J. LAWTON,
Director.

Mr. LUCAS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. All time on the side of the opponents of the resolution has expired.

The Senator from Colorado is recognized.

Mr. JOHNSON of Colorado. Mr. President, let me inquire whether the Senator from Louisiana desires an opportunity to ask questions of the Senator from Connecticut at this time?

Mr. LONG. I do not care to have time yielded to me now, but later I should like to say a few words.

Mr. JOHNSON of Colorado. Mr. President, under the circumstances, I now yield to the Senator from Louisiana whatever time he wishes to have.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, I feel that I should say a word or two concerning these plans.

I served on the Committee on Expenditures in the Executive Departments, as a junior member of that committee, when I first came to the Senate. At that time I had occasion to study the Hoover Commission recommendations, when they were first made.

I cannot escape the conclusion that, in my judgment, the administration has sent to us plan after plan after plan which has incorporated some ideas of the Hoover Commission, but invariably has added to it things never recommended or not even thought of by the Hoover Commission.

The distinguished chairman of the Committee on Expenditures in the Executive Departments, the Senator from Arkansas [Mr. MCCLELLAN], said last Friday that, as a member of the Hoover Commission itself, he would point out that some of the things contained in the plans which are being submitted to the Congress by the White House were never conceived or thought of by the Hoover Commission, and that many of the recommendations in the plans which have been submitted to us by the White House constitute nothing more or less than a grab for power by the administration.

Mr. President, in my opinion what is being done with these plans constitutes an attempt to destroy the independence of these independent Government commissions. They are supposed to be bipartisan commissions; the thinking of both Republicans and Democrats is supposed to be represented in their membership and in their actions.

However, in the plans which have been submitted by the administration we find there are two elements. One is the proposal for the appointment of the chairman by the President of the United States. The other is the proposal to vest in the chairman all the powers and many administrative functions of the commission.

Neither of those two factors, if taken alone, of itself would be dangerous or would destroy the independence of the commission. However, when both factors are taken together, they would destroy the independence of the commissions, which certainly were designed by Congress to be independent. Certainly that was the desire of Congress regarding them. It is obvious that no Member of the Congress desires that the White House should control the Federal Trade Commission or the Interstate Commerce Commission or the Federal Power Commission or the Federal Communications Commission.

However, what do we see, when we examine the plans which have been submitted to us by the White House? First, we see a plan providing that the President shall have the right to name the chairman of the respective commissions.

In the second place, the plans as submitted authorize the President not only to name the chairman, but to give and to vest in the chairman the power to hire or fire all personnel of the commission, the power to establish the personnel, the power to assign all the duties of all the personnel of the commission, and the power to say what sort of work shall be done by all the personnel.

The adoption of such a plan would result in taking away from the ordinary members of the commissions the authority to have anything at all to say about those matters.

Mr. President, if you or I or anyone else were a member of one of those commissions, what good would it do us if we thought that a certain railroad should be organized or that a certain railroad should not be organized, or what good would it do us to have those ideas along similar lines, if we did not have the power and authority to instruct the trial examiners to study what railroad should be organized or what railroad should not be organized? What good would it do us if we thought a certain antitrust policy should be followed by the Federal Trade Commission, if the chairman of the Federal Trade Commission did not believe in such an antitrust policy and did not assign to the work of building up the antitrust policy certain competent persons who would make a satisfactory record in that respect and would explore the ideas which subsequently would be the basis for such a policy?

If the commission had the authority either to give to the chairman or to take away from the chairman that power, the commission itself would be in position to require the chairman to follow the will and the desires of the commission. However, if the commission did not have the authority to take such power away from the chairman or to give such power to him, but if the chairman had the right to do all the hiring and firing of personnel and the right to assign all the work to all the employees of the commission and members of the commission,

the other members of the commission would not have the authority to tell the chairman what he could do or what he should or should not do. Instead, the chairman himself would be running the commission from beginning to end.

In such case, because the President could appoint the chairman and because the chairman could be kept in power at the pleasure of the President and could be removed from that position at the pleasure of the President, the invariably result would be that every year the President could name a new chairman of the commission, and could name to that position a man whom he thought would carry out the President's ideas regarding policy.

Mr. President, it was never intended, as the record shows, that the President should have the authority to set the policies of these commissions. They are not supposed to reflect the ideas or views of the administration or of the White House or of anyone else except Congress. The commissions are supposed to reflect the policies of Congress, and of no one else.

Mr. O'CONOR. Mr. President, will the Senator yield?

Mr. LONG. I yield for a brief question.

Mr. O'CONOR. The Senator has stated that according to the plan, the commission itself would be left without anything to say or without any authority. Does the Senator from Louisiana know that in this reorganization plan it is specifically provided that—

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

Mr. LONG. That is exactly what I had in mind.

Mr. O'CONOR. So, does the Senator think the commission would be without authority, inasmuch as it would still have the right to determine the policy and the right to govern the chairman in connection with the exercise of his administrative functions?

Mr. LONG. Mr. President, I am pleased to note that the distinguished Senator from Maryland read that statement from the report and recommendations of the Hoover Commission, because the Hoover Commission had in mind, so far as I can see, that the chairman of these commissions had to carry out the will of the commissions themselves.

The distinguished Senator from Arkansas [Mr. McCLELLAN] said on Friday that some consideration was given in the Hoover Commission in regard to not even studying and making recommendations in the case of these independent agencies. However, when the Hoover Commission decided to study them, it determined that the best thing to do would be simply to let the commissions themselves—at least, according to the opinion of the Senator from Arkansas—give to the chairman such authority as the commissions thought necessary. The Senator from Arkansas said that in that connection in the reorganization legislation it was only necessary to provide that the commission would have the authority to vest in the chairman of the commission whatever authority the commission itself wished the chairman to have.

However, if the President appoints the chairman, the President will have the power to remove the chairman at any time he wishes to remove him. Therefore, if we vest in the chairman the power to hire or to fire the personnel and the power to say who will be working and who will not be working and the power to say what kind of work the personnel will do, that will make all the bipartisan members of the commission helpless and powerless to do anything except to follow—not the views of the commission—but the views of the chairman and of the administration in power.

Mr. O'CONOR. Mr. President, will the Senator yield?

Mr. LONG. Mr. President, let me say that I believe I incorrectly stated that the Senator from Maryland read from the Hoover Commission report.

Mr. O'CONOR. That is correct; I read from the reorganization plan.

Mr. LONG. Yes; but when the Senator states that the chairman would have to follow the views of the commission, that is a fallacious statement, because the chairman would be following the desires and the views of the administration in power, and that is the reason why the plan is prepared in that fashion.

Mr. JOHNSON of Colorado. Mr. President, I thank the Senator from Louisiana for correctly stating the situation with respect to these plans.

The Senator from Maryland [Mr. O'CONOR] incorrectly stated the situation when he said that the Hoover Commission's plan recommended the appointment of the chairmen of these regulatory bodies. To the contrary, I wish to read from page 5 of the Hoover Commission's recommendations:

Recommendation No. 1:

We recommend that all administrative responsibility be vested in the chairman of the commission.

The Hoover Commission's recommendation says nothing whatever about the appointment of the chairman by the President. A statement to that effect cannot be found in the report of the Hoover Commission; it is not there.

It may be true that the task force, who have been backing the program as submitted to the Congress in the plans now proposed, have made that kind of recommendation. However, so far as I know, no member of the task force has ever been elected to Congress or has served in Congress or has taken the oath of office to protect the Constitution of the United States. Why we should follow the advice of the Senator from Illinois and should listen to Chambers of Commerce and to Dr. Johnson, of Temple University, who heads the task force, is more than I can understand, when they are dealing with matters which directly affect the constitutional division of power, as established by the founding fathers.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. No; I do not have time to yield. I am sorry.

The Constitution itself, by section 8 of article I, gives to Congress the power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes. At no place in the Constitution can it be found that power over commerce is given to the President. Such provision is not to be found in the Constitution. That power is given to the Congress, not to the President. Yet, under this plan, we are, as the Senator from Louisiana has clearly shown, delegating to the President powers over commerce and over these commissions that were created as the arms of Congress.

The Federal Trade Commission, next to the Interstate Commerce Commission, is the oldest legislative agency of the Government. The powers granted to it and the procedural provisions of the Federal Trade Commission Act have been used as a pattern for practically all the legislative agencies which have been set up by Congress since the FTC was created.

While it has important law-enforcing functions, this Commission is uniquely an arm of the Congress. I cannot for the life of me see how Senators who are students of government and who, as Members of Congress, ought to be jealous of the powers of the Congress, can be so willing and anxious to delegate those powers to the Executive. The most important function of the Federal Trade Commission is to investigate trade conditions and to make recommendations to the Congress for the passage of legislation to eliminate abuses which have been disclosed by its use of the investigative procedure, which is clearly a legislative power, not an Executive power.

The Commission's general economic investigations under the law are made at the request of the President, or the Congress, or on motion of the Commission itself, pursuant to the Federal Trade Commission Act.

Since its establishment in 1915, the Commission has conducted numerous general investigations, of which some of the most important have been requested by Congress itself and have directly resulted in the enactment of important legislation. Of these, perhaps the most important were the Commission's investigations into the public-utility industry. The Sixty-eighth Congress, by Senate Resolution 329, directed the Commission to make an investigation of the electric power industry, which resulted in two reports, the first of which, Electric Power Industry—Control of Power Companies—Senate Document 213, February 21, 1927—dealt with the organization, control, and ownership of commercial electric-power companies. It called attention to the dangerous degree to which pyramiding had been practiced in superimposing a series of holding companies upon the underlying operating companies.

A more extensive inquiry, the so-called public-utility investigation, followed. This additional comprehensive inquiry was made pursuant to Senate Resolution 83, adopted on June 1, 1934, and embraced the financial structures of elec-

tric and gas utility companies operating in interstate commerce, their holding companies, and other companies controlled by the holding companies. The inquiry also dealt with the utilities' efforts to influence public opinion with respect to municipal ownership of electric utilities. The Commission's reports and recommendations, focussing congressional attention upon certain unfair financial practices in connection with the organization of holding companies and the sale of securities, were among the influences which brought about enactment of such remedial legislation as the Securities Act of 1933, the Public Utility Holding Company Act of 1935, the Federal Power Act of 1935, the Natural Gas Act of 1938.

The testimony, exhibits, and final reports of this extensive investigation—Utility Corporations, Senate Document 92, Seventieth Congress—comprised 95 volumes. It is now proposed in the Congress to turn this Commission, this arm of the Congress, over to the Chief Executive of the United States.

Of almost equal importance was the Federal Trade Commission's investigation of the chain-store menace on monopoly, made at the direction of Congress—Senate Resolution 224, Seventieth Congress, May 12, 1928. Cooperative chains, chain-store manufacturing, and wholesale business, leaders and loss leaders, private brands, short weighting, and under-weighing, sales, cost, profits, wages, special discounts and allowances, and prices and margins of chain and independent grocery and drug distributors in selected cities were given a thorough exploration. This investigation culminated in the publication of 33 reports, published under the general title "Chain Stores, 1933–33." Of these, the most important was the final report on the chain-store investigation—Senate Document 4, Seventy-fourth Congress, December 14, 1934. This report carefully examined the legal remedies available to combat monopolistic tendencies in chain-store developments. The Commission's recommendations pointed the way to subsequent enactment of the Robinson-Patman Act of 1936, prohibiting price and other discriminations.

Other investigations were also conducted, resulting in important legislation, of which the investigation into the meat-packing industry is an outstanding example. This investigation first led to antitrust proceedings against the Big Five packers, resulting in a consent decree which had substantially the effect of Federal legislation in restricting future operations of the packers to certain lines of activity.

As a further result of the investigation, Congress enacted the Packers and Stockyards Act, adopting the Commission's recommendation that the packing houses be divorced from the stockyards.

Another important investigation carried on at the direction of Congress was the investigation into the Agricultural Implements and Machinery Industry—House Document 702, Seventy-fifth Congress, June 6, 1938. This investigation was directed to the subject of the disparity between the depression price declines of farm products on the one hand and the comparative stability of prices of farm implements on the other. The report criticized certain competitive practices on the part of the dominant companies, showing, among other things, that a few major companies had maintained a concentration of control, which resulted in large part from their acquisition of the capital stock or assets of competitors prior to the enactment of the Clayton Antitrust Act in 1914, and thereafter from their purchase of the assets of competitors rather than capital stock. Following the submission of this report, the farm-implement manufacturing industry made substantial price reductions and remedied a number of the competitive practices which had been criticized.

It is now proposed that we turn this independent Commission over to the Chief Executive. I have just referred to the Robinson-Patman Act, its enactment, the history back of it, its background, and the writing of it. But, Mr. President, the administration is not a unit with respect to support of the Robinson-Patman Act. The Antitrust Division of the Department of Justice has very little use for that act. I am not making a plea for the Robinson-Patman Act; that will have to be decided by Congress. But I am saying that we are taking a short cut toward making the Robinson-Patman Act ineffective, because, if we turn the Federal Trade Commission over to the administration, it will naturally follow that the Department of Justice, an important part of the administration, will have its own way regarding the Robinson-Patman Act.

The Federal Trade Commission is peculiarly an arm of Congress. In the act of September 26, 1914, establishing the Commission, specific provision was made and specific powers granted to the Commission—

> To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices and management of any corporation engaged in commerce, excepting banks and common carriers subject to the act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships.

Where did Congress receive authority to pass such legislation? It came from the Constitution of the United States. Now we are asked to turn that authority over to the executive branch. For the life of me, Mr. President, I cannot see how Senators who are learned in the law and in the history of the development of the Constitution can take the position which some take today of advocating that the Congress turn over to the Chief Executive the functions which were given to it by the Constitution.

I read further:

> The commission was further authorized—
>
> Upon the direction of the President or either House of Congress to investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation.
>
> To make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.
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> To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, with such recommendations as it deems advisable.

Mr. President, I desire to quote excerpts from the decision of the Supreme Court in connection with former Commissioner Humphrey which are a concise statement of the concept and functions of the Federal Trade Commission. I am referring to the case of Humphrey's Executor against United States, in which the Supreme Court, speaking of the Federal Trade Commission, said:

> The Commission is to be nonpartisan; and it must, from the very nature of its duties, act with entire impartiality. It is charged with the enforcement of no policy except the policy of the law. Its duties are neither political nor executive, but predominantly quasi-judicial and quasi-legislative. Like the Interstate Commerce Commission, its members are called upon to exercise the trained judgment of a body of experts appointed by law and informed by experience.

Mr. President, that is not Senator JOHNSON of Colorado speaking; that is the Supreme Court of the United States speaking. I return to the language of the Supreme Court with respect to this great tribunal, the Federal Trade Commission:

> The legislative reports in both Houses of Congress clearly reflect the view that a fixed term was necessary to the effective and fair administration of the law. In the report to the Senate (No. 597, 63d Cong., 2d sess., pp. 10–11) the Senate Committee on Interstate Commerce, in support of the bill which afterward became the act in question, after referring to the provision fixing the term of office at 7 years, so arranged that the membership would not be subject to complete change at any one time.

Yet, Mr. President, we are attempting here to fix the length of the term of office of the Chairman, establishing it under the President, so he can remove the Chairman whenever he wants to do so.

Here is what the Senate itself said about it at the time the Federal Trade Commission was created:

> The work of this Commission will be of a most exacting and difficult character, demanding persons who have experience in the problems to be met—that is, a proper knowledge of both the public requirements and the practical affairs of industry. It is manifestly desirable that the terms of the Commissioners shall be long enough to give them an opportunity to acquire the expertness in dealing with these special questions concerning industry that comes from experience.

That is what was said by this body at the time the Commission was created. Yet today it is proposed to fly in the face of what the Supreme Court has said and to permit the President to appoint a Chairman who can be removed after 1 day's service, if the President wants to remove him. That would place the

Chairman directly under the political influence of the President if the President desired to exercise such political influence.

I read further from the decision of the Supreme Court:

The report declared that one advantage which the Commission possessed over the Bureau of Corporations (an executive subdivision in the Department of Commerce which was abolished by the act) lay in the fact of its independence, and that it was essential that the Commission should not be open to the suspicion of partisan direction. The report quotes (p. 22) a statement to the committee by Senator Newlands, who reported the bill, that the tribunal should be of high character and "independent of any department of the Government, * * * a board of commission of dignity, permanence, and ability, independent of executive authority, except in its selection, and independent in character."

The debates in both Houses demonstrate that the prevailing view was that the Commission was not to be "subject to anybody in the Government but * * * only to the people of the United States"; free from "political domination or control" or the "probability or possibility of such a thing"; to be "separate and apart from any existing department of the Government—not subject to the orders of the President."

Mr. President, that is still the Supreme Court speaking. Yet, what we are asked to do here, through the back door, is to make an important change in our form of government.

I continue the quotation from the decision of the Supreme Court:

More to the same effect appears in the debates, which were long and thorough and contain nothing to the contrary. While the general rule precludes the use of these debates to explain the meaning of the words of the statute, they may be considered as reflecting light upon its general purposes and the evils which it sought to remedy. (*Federal Trade Comm'n* v. *Raladam Co.* (283 U. S. 643, 650).)

Thus, the language of the act, the legislative reports, and the general purposes of the legislation as reflected by the debates, all combine to demonstrate the congressional intent to create a body of experts who shall gain experience by length of service—a body which shall be independent of executive authority, except in its selection, and free to exercise its judgment without the leave or hindrance of any other official or any department of the Government. To the accomplishment of these purposes, it is clear that Congress was of opinion that length and certainty of tenure would vitally contribute. And to hold that, nevertheless, the members of the Commission continue in office at the mere will of the President, might be to thwart, in large measure, the very ends which Congress sought to realize by definitely fixing the term of office.

If we approve this reorganization plan we shall be doing just the opposite of that in which the Supreme Court found so much merit.

I continue the quotation:

We conclude that the intent of the act is to limit the executive power of removal to the causes enumerated, the existence of none of which is claimed here; and we pass to the second question.

* * * * *

The Federal Trade Commission is an administrative body created by Congress to carry into effect legislative policies embodied in the statute in accordance with the legislative standard therein prescribed, and to perform other specified duties as a legislative or as a judicial aid. Such a body cannot in any proper sense be characterized as an arm or an eye of the executive. Its duties are performed without executive leave and, in the contemplation of the statute, must be free from executive control. In administering the provisions of the statute in respect of "unfair methods of competition" that is to say in filling in and administering the details embodied by that general standard—the Commission acts in part quasi-legislatively and in part quasi-judicially. In making investigations and reports thereon for the information of Congress under section 6, in aid of the legislative power, it acts as a legislative agency. Under section 7, which authorizes the Commission to act as a master in chancery under rules prescribed by the court, it acts as an agency of the judiciary. To the extent that it exercises any executive function—as distinguished from executive power in the constitutional sense—it does so in the discharge and effectuation of its quasi-legislative or quasi-judicial powers, or as an agency of the legislative or judicial departments of the Government.

If Congress is without authority to prescribe causes for removal of members of the Trade Commission and limit Executive power of removal accordingly, that power at once becomes practically all-inclusive in respect of civil officers with the exception of the judiciary provided for by the Constitution. The Solicitor General, at the bar, apparently recognizing this to be true, with commendable candor, agreed that his view in respect of the removability of members of the Federal Trade Commission necessitated a like view in respect of the Interstate Commerce Commission and the Court of Claims. We are thus confronted with the serious question whether not only the members of these quasi-legislative and quasi-judicial bodies, but the judges of the legislative Court of Claims, exercising judicial power (*Williams* v. *United States* (289 U. S. 553, 565–567)), continue in office only at the pleasure of the President.

We think it plain under the Constitution that illimitable power of removal is not possessed by the President in respect of officers of the character of those just named. The authority of Congress, in creating quasi-legislative or quasi-judicial agencies, to require them to act in discharge of their duties independently of Executive control cannot well be doubted; and that authority includes, as an appropriate incident, power to fix the period during which they shall continue in office, and to forbid their removal except for cause in the meantime. For it is quite evident that one who holds his office only during the pleasure of another cannot be depended upon to maintain an attitude of independence against the latter's will.

The fundamental necessity of maintaining each of the three general departments of Government entirely free from the control or coercive influence, direct or indirect, of either of the others, has often been stressed and is hardly open to serious question.

The Supreme Court thought it was hardly open to serious question. However, today we have opened it to serious question, and we are attempting to destroy what the Supreme Court points out is so important to our form of government.

I continue to read from the decision:

So much is implied in the very fact of the separation of the powers of these departments by the Constitution and in the rule which recognizes their essential coequality. The sound application of a principle that makes one master in his own house precludes him from imposing his control in the house of another who is master there.

The above quotation clearly demonstrates that Congress, in setting up the Federal Trade Commission, intended that the Commission should be an arm of the Congress and free from the executive department, except in the matter of its selection. To place the Chairman of the Commission under the domination of the President would be to subvert this original intent. It would substantially change the basic character of the Commission from an instrumentality primarily devoted to assisting and carrying out the will of the Congress to that of a creature of the Executive.

Mr. President, everyone has his own definition of a liberal or a progressive. I have my definition. As I see it, a political liberal is one who desires that the people have more and more power, and more and more authority. What I believe to be a conservative is one who wants to take powers away from the people and give them to the Executive. He wants to move ever forward toward a totalitarian government, toward a tyrannical government, toward a dictatorship. That is what I consider to be an ultraconservative. Today we are dealing with that very question. Are we moving more and more toward democracy, more and more toward rule by the people, or are we moving more and more toward centralization of power in the Chief Executive? That question gave serious concern to the founding fathers when they established this Government. They organized it very carefully and they divided the powers into legislative, judicial, and executive. They kept the powers divided. We are not dividing them here. We are turning over to the Chief Executive powers which do not belong to him. Under this plan, we are turning over legislative powers to the Chief Executive. When the Chief Executive exercises all three powers—the legislative, the judicial, and the executive—we have tyranny. When we do that we are taking a step in that direction. I believe we would do that today if we do not disapprove the plan which has been submitted.

We are moving toward bureaucratic government. We have gone a long way in creating bureaus. The people of the country do not like bureaucratic government. They will vote against it every time they have a chance to do so. They are opposed to it. They ought to be opposed to it, because when a bureau is established the bureaucrats are not responsible to the people, and the people cannot reach them in any degree. They pay no attention to the will of the people. They handle things in their own way and as they please. They sneer and laugh at the people. Yet bureaucratic government would be furthered if the Federal Trade Commission were brought under this plan.

I have heard the argument made that Congress by its own act has given the President the power to name chairmen of some of the regulatory commissions. That is correct. However, whenever Congress has done that it has made a grave mistake. Our objection to the plan goes beyond that. Not only would the President have the power to appoint the chairman but the plan would give the chairman the power absolutely to control

the commission. That is the object of these reorganization plans. If I am given control of the staff of any of these commissions, anyone else may make any decision he may want to make. I would still be running the commission, because the staff decides what cases are to be brought before the commission, and what cases are not to be brought before the commission.

Mr. President, I have used this argument before, but I think it ought to be stated over and over again to the Senate and to the Congress. Suppose a proposal were made that the President of the United States should appoint the chairmen of Senate committees. Suppose the proposal were made that he should appoint the chairman of the Committee on Appropriations, the chairman of the Committee on Interstate and Foreign Commerce, and the chairman of the Committee on Finance, as well as of all the other committees of Congress. Suppose we gave the President the power to appoint those chairmen. Suppose we followed that up by giving the chairmen of the committees full authority and full control over the staffs of the committees, how much of a democracy would we have? Of course, we would not have anything worthy of the name democracy. That is precisely and exactly what is proposed here to be done with these arms of Congress, to let the President select the chairmen of the commissions which are the arms of Congress, and then give the chairmen power over their great staffs.

There are commissions in this city which are housed in great buildings. They have hundreds of staff members and employees who work under them. If we give the chairmen authority over everything pertaining to the commissions and the staffs, how much could the other commissioners do? How much authority or power would they have?

We are told that there is an element of economy implied in these reorganization plans. How much money do these commissions handle in their budgets? Haw much money does it take to operate them? The ICC, which is the largest, costs the Government $12,000,000 a year. The Federal Communications Commission costs $7,000,000. The Federal Trade Commission, the one we are now considering, costs $4,000,000, and the Federal Power Commission costs $4,000,000. The total for the four commissions is $27,000,000.

How great a percentage is that of the total expenditures for this year? It is sixty-five one-thousandths of 1 percent. That is a pretty small amount.

Mr. President, I should like to see economy brought about. I should like to see economy in connection with these commissions. I should like to see more efficiency in them. I believe we can have more efficiency, and I believe we should have more efficiency, but I think we can accomplish that without destroying the commissions themselves, and without destroying our form of government.

For the life of me, Mr. President, I cannot understand the position of many of the liberal leaders of the Senate. I was heartened by an editorial which appeared in a liberal daily of Washington, the Washington Post, yesterday. It reads:

TWO MORE TURNED DOWN

Senate rejection of the plans for reorganizing the ICC and FCC are not in our opinion a major setback to the reorganization program. For, though the Hoover Commission recommended that administrative responsibility be vested in the chairmen of independent regulatory agencies, it devoted comparatively little attention to the problems of agencies exercising quasi-legislative and quasi-judicial functions. Congress is understandably jealous of any change in the organizational set-up that might open the way for executive domination of these agencies and subject them to political pressure.

Mr. President, I do not know whether Congress is jealous of its own powers and whether it wants to protect itself or not. We will find out when the roll is called in a few minutes. I hope Congress is jealous of its powers, that Congress does not want political pressure to enter into the conduct of these governmental commissions.

The editorial proceeds:

Moreover, while centralization of administrative responsibility in the heads of executive establishments appears to be sound in principle, it is by no means certain that it is desirable to centralize administrative authority in the chairmen of regulatory agencies.

We are talking about the regulatory agencies. Here is a great, liberal newspaper which sees the difference between a regulatory agency and an executive agency. Apparently, judging from the debates which have prooceeded on this floor, many Senators do not see any difference between a regulatory agency and an agency of the executive branch. But the Washington Post has called to our attention the fact that there is a distinction, and the Washington Post does not see very much harm to the reorganization plan program when the House of Representatives or the Senate rejects reorganization plans dealing with the regulatory agencies of the Government.

The editorial proceeds to point out that in one case, that of the Federal Commission, the Chairman was already appointed by the President. That is not too good an ararngement, and it is not too bad an arrangement, either, because the Chairman of the Federal Communications Commission has not been given the great powers these reorganization plans place in the chairmen of other commissions after they are appointed by the President. Of the four plans which we have before us today, in only one does the President appoint the Chairman, and that is in the case of the Federal Communications Commission. As I have said, there is not too much harm there because the Chairman is not given the vast powers the chairmen are given under the reorganization plans covering the other three commissions.

The Senate very wisely the other day, when it came to a vote on whether or not to give those powers to the Federal Communications Commission, acted in behalf of liberal government, acted in behalf of democracy. Senators were true to their principles, they were true to the principles of the founding fathers who created this Government, and who divided the powers of the Government. They were true to the Constitution in section 8, article I, where the power over commerce is given exclusively to the Congress, and is not given in any degree to the Chief Executive.

Mr. BRICKER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from Ohio?

Mr. JOHNSON of Colorado. I yield.

Mr. BRICKER. Does the Senator agree with me that if this reorganization plan were to be adopted it would give the President almost as much direct power over these administrative agencies, which are arms of the Congress, as if the Supreme Court had not decided adversely to the President in the case involving the removal of Mr. Humphrey in 1934?

Mr. JOHNSON of Colorado. If we adopted this reorganization plan today, we would completely reverse the Humphrey case.

Mr. BRICKER. That is my judgment, and I am glad the Senator agrees with me in that. In other words, if we were to adopt the President's plan, he would be able to completely control the activities of the commission, through the chairman, whom he would have the power to remove also. Is that not correct?

Mr. JOHNSON of Colorado. If this plan goes through, the President can appoint that chairman and he can remove him, do anything he wants to do, and the chairman will be completely under his political control from the day he is appointed until the end of his term.

Mr. BRICKER. The Supreme Court held in 1934 that the President of the United States had not the power to remove, because it would give him power over a regulatory agency, which, under the Constitution, he could not have.

Mr. JOHNSON of Colorado. That is true.

Mr. BRICKER. Under the plan now before the Senate, the chairman would be given control of the money that is appropriated, control over the personnel, under the appointing power of the President, which would be in substance exactly the same thing the Supreme Court said the President could not have?

Mr. JOHNSON of Colorado. That is my understanding.

Mr. BRICKER. I thank the Senator.

Mr. JOHNSON of Colorado. Of course, I am not an authority on legal questions, not being a lawyer, and certainly not a constitutional lawyer, but it seems to me that is implicit in the language we have before us.

The Washington Post, in its excellent editorial of yesterday, said further, referring to the Interstate Commerce Commission:

However, there are good reasons for letting well enough alone in this instance. For the ICC reorganization plan met with strong opposition from the Association of American Railroads, motortruck owners, and the railway brotherhoods, and other groups. Furthermore, it has functioned on the whole most satisfactorily under the existing organization set-up, and there is no virtue in change merely for the sake of establishing a standard reorganizational pattern for the Government's independent regulatory agen-

cies. It should also be noted that the Hoover Commission did not recommend transfer of the power to select the ICC's Chairman to the President.

That is true of the plan we have before us. Mr. Hoover and the Commission in their report never recommended the President have the appointive power of the Chairman of the Federal Trade Commission. That was thought up by somebody else, not by Mr. Hoover and his Commission.

Senators who opposed the ICC plan for that reason had to find other arguments to support rejection of the FCC reorganization plan, since the FCC Chairman is appointed by the President. While the debate on this plan was hurried and inclusive the chief objections to it apparently were (1) that because the FCC Chairman is appointed by the President, it would be all the more dangerous to increase his power; (2) that the FCC itself believed that a recently adopted administrative order would enable it to delegate necessary authority to the Chairman, and (3) that only one member of the Commission, besides the Chairman, has voiced support of the plan, while two others have opposed it and the rest maintain silence.

Mr. President, I ask unanimous consent that the editorial may be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TWO MORE TURNED DOWN

Senate rejection of the plans for reorganizing the ICC and the FCC are not in our opinion a major setback to the reorganization program. For, though the Hoover Commission recommended that administrative responsibility be vested in the chairmen of independent regulatory agencies, it devoted comparatively little attention to the problems of agencies exercising quasi-legislative and quasi-judicial functions. Congress is understandably jealous of any change in the organizational setup that might open the way for executive domination of these agencies and subject them to political pressure. Moreover, while centralization of administrative responsibility in the heads of executive establishments appears to be sound in principle, it is by no means certain that it is desirable to centralize administrative authority in the Chairman of regulatory agencies.

To be sure, the rejected reorganization plans specifically provide that the chairman shall be governed by the general policies and the decisions of the regulatory agency. Nevertheless, the proposed changes would have had the effect of strengthening the influence of the Chairman at the expense of other members of these multiheaded agencies. This would open the door to abuses of power. Moreover, it is doubtful whether the concentration of responsibility for day-to-day administration of a regulatory agency would increase its efficiency. It would be more likely to overburden the chairman and distract his attention from the problems that should be his chief concern. Instead of centering responsibility in a single top-ranking member, the better plan would be to relieve all members of regulatory commissions of burdensome administrative duties and centralize responsibility in an official who would be supervised by them.

Opposition to the ICC reorganization plan was strengthened because of the proposal to empower the President to designate the Chairman, who is now selected by the Commission. It is nonsense to argue that this change would destroy the independence of the Commission and concentrate power over its operations in the hands of the President. The Chief Executive already has statutory power to appoint the Chairmen of such agencies as the FCC, the NLRB, the Civil Aeronautics Board, the Maritime Commission, and the Federal Reserve Board. Those agencies certainly have not forefeited their independent status and become subject to arbitrary executive control.

However, there are good reasons for letting well enough alone in this instance. For the ICC reorganization plan met with strong opposition from the Association of American Railroads, motortruck owners, the railway brotherhoods and other groups. Furthermore, it has functioned on the whole most satisfactorily under the existing organization setup, and there is no virtue in change merely for the sake of establishing a standard reorganizational pattern for the Government's independent regulatory agencies. It should also be noted that the Hoover Commission did not recommend transfer of the power to select the ICC's Chairman to the President. Senators who opposed the ICC plan for that reason had to find other arguments to support rejection of the FCC reorganization plan, since the FCC Chairman is appointed by the President. While the debate on this plan was hurried and inconclusive the chief objections to it apparently were (1) that because the FCC Chairman is appointed by the President, it would be all the more dangerous to increase his power; (2) that the FCC itself believed that a recently adopted administrative order would enable it to delegate necessary authority to the Chairman, and (3) that only one member of the Commission, besides the chairman, has voiced support of the plan, while two others have opposed it and the rest maintained silence.

Judging from the nature of the arguments advanced and the bipartisan character of the opposition to these plans, a number of similar pending proposals for reorganizing regulatory agencies will probably meet with the same fate. However, to repeat, rejection of these plans is based on opposition to interference with the so-called independent agencies that are not, strictly speaking, a part of the executive establishment of the Government with which the Hoover Commission was primarily concerned.

Mr. JOHNSON of Colorado. Mr. President, that is what the Washington Post says about these plans. I repeat that the Washington Post is the most liberal newspaper in Washington today. I am glad the Post has been true to its colors. Whether Congress is jealous of its powers or not, the Washington Post is jealous of those powers and does not want them transferred from the Congress to the Chief Executive.

Mr. President, the majority leader tried to obtain the floor a moment ago. I wish to give him time to reply to me, or to ask any questions he desires to ask, or say anything he wishes to say. I think that is only fair.

Mr. LUCAS. Mr. President, will the Senator yield several minutes to me?

Mr. JOHNSON of Colorado. Were the chairman of the Committee on Expenditures in the Executive Departments, the Senator from Arkansas [Mr. MCCLELLAN] present I should like to give him a couple of minutes. He is not present at the moment, however. So, I yield 5 minutes of my time to the Senator from Illinois.

Mr. LUCAS. I thank the Senator from Colorado.

Mr. President, I did not hear all the arguments presented by the Senator from Colorado, and I confess I may have some trouble in answering the Senator's statement because that I did not hear all of it. I simply want to make one or two comments with respect to the Senator's statement about the positions of the citizens committee, and the position of chambers of commerce and other interested citizens and groups throughout the Nation who are vitally concerned about the reorganization of the executive branch of the Government for the primary and fundamental purpose of achieving greater efficiency and economy in Government.

We have constantly heard fears expressed concerning delegation of power by the legislative branch to the executive branch of the Government. It is because of that fear that so many distinguished Senators are opposing the reorganization plans.

Mr. President, my memory of what happened last year in the Senate of the United States is very good. At that time a petition signed by practically the same Senators who are now opposing the reorganization of Government departments and agencies tried on two different occasions to have acted upon favorably a petition they presented which would have given the President of the United States the authority to decrease expenditures in Government $2,000,000,000 or $3,000,000,000. Talk about delegation of power. To my way of thinking that was the most unusual proposal I have ever seen presented, a proposal to give the President of the United States the right to decrease the expenditures of Government $2,000,000,000 or $3,000,000,000. It was not proposed that Congress should do it, but it was proposed to give into the hands of the President of the United States the power to make such a decrease in Government expenditures.

I repeat what I have tried to make plain by argument from the beginning, that unless we grant some power to the President of the United States, unless we are willing to trust the President of the United States to appoint the kind of chairmen which the Congress by legislation on five different occasions has authorized him to appoint, there will never be any effective reorganization of Government at all.

The surprising thing to me is that Senators on both sides of the aisle who are constantly crying from the housetops about economy in Government, are now willing to abandon the theory of economy in Government because someone wants to transfer a little power to the President of the United States, the power to appoint the chairmen, who are the only ones who can really do a satisfactory job from the standpoint of reorganizing Government departments and agencies. Yet we hear Senators argue in behalf of an entire commission to sit around a table and discuss and deliberate over whether to hire Tom Jones as an assistant or Bill Smith as a typist. That simply does not make sense to me, Mr. President. In other words, the administrative powers ought to be lodged

where the responsibility can be centered, which is in the chairmen of the respective commissions.

Mr. President, I undertake to say that the people of the country are alarmed over what is going on here with respect to the destruction of the different reorganization plans. The Senator from Louisiana [Mr. LONG] a few moments ago said we were departing completely from the Hoover recommendations. If we are making such a departure, and if the President of the United States had deviated tremendously and wrongfully from the plans laid down by Mr. Hoover, why is it that the former President of the United States, Mr. Hoover, has not said one word in connection with the debates about the repudiation of his plans? He has not said one word. If the so-called repudiation is the kind of repudation some desire us to believe, I am certain former President Hoover would have spoken up and said, "The plan is not, in letter or in spirit, along the lines proposed for the reorganization."

Mr. President, I have before me a letter from John Stuart, of the Quaker Oats Co. Mr. Stuart is a brother of Douglas Stuart, treasurer of the National Committee of the Republican Party. He is the head of the Quaker Oats Co. This is what he says:

We are quite distressed by the news that has come to us from the representatives in Washington of the Citizens' Committee for the Hoover Report that, because the present Reorganization Plans 1 and 12 have been defeated, there is an effort developing on the part of some of the Senators to kill or hold up all of the recommendations of the President sent in based on the Hoover recommendations for the reorganization of Government Departments and departmental divisions.

Mr. JOHNSON of Colorado. Mr. President, will the Senator from Illinois be kind enough to insert the whole letter in the RECORD? I should like to speak for a couple of minutes in conclusion.

Mr. LUCAS. Mr. President, I ask unanimous consent to have the entire letter incorporated in the RECORD at this point.

The VICE PRESIDENT. Without objection, it is so ordered.

The letter is as follows:

QUAKER OATS CO.,
Chicago, Ill., May 17, 1950.

Hon. SCOTT W. LUCAS,
United States Senate,
Washington, D. C.

MY DEAR SENATOR: We are quite distressed by the news that has come to us from the representatives in Washington of the Citizens Committee for the Hoover Report that, because the present Reorganization Plans 1 and 12 have been defeated, there is an effort developing on the part of some of the Senators to kill or hold up all of the recommendations the President sent in based on the Hoover recommendations for the reorganization of Government departments and departmental divisions.

The people in our State are beginning to get the facts about the Hoover recommendations and what the streamlining of these Government departments and operations will mean and to realize that as consumers they are paying the big end of the bill for this waste and inefficiency in the price level of the things that they, as consumers, buy.

I am sure that on many of these recommendations there will be small groups that will oppose certain features. We have had too much legislation for small interested groups and I think it is time that all of us should yield on some of these points if the results will be helpful to the great majority of our citizens.

I hope we can count on you for your active interest and help in getting these savings for the people by doing what you can to see that the Hoover recommendations that will produce these economies and result in efficiency are put into operation.

With kind regards,

Sincerely yours,

JOHN STUART,
Chairman, Illinois Citizens Committee for the Hoover Report.

Mr. LUCAS. Mr. President, I hope every Senator, and especially my Republican friends, will read what John Stuart, chairman of the Illinois Citizens Committee for the Hoover Report, says in his letter.

Mr. JOHNSON of Colorado. Mr. President, Basil Manly appeared before the Committee on Expenditures in the Executive Departments about a month ago and made a statement which I believe should be called to the attention of the Senate. Since he appeared before the committee Basil Manly died very suddenly. We greatly regret his death. He was a valuable man to the American democracy. This is what he stated before the committee:

I am a Democrat with the highest respect for the office of President, having held public office under three of them, but I predict that if these great powers are concentrated in the hands of the Commission chairman, the American Nation will soon have a series of one-man dictatorships ruling the activities of almost every kind of American enterprise and indirectly controlling the lives of all classes of American citizens.

Basil Manly knew what he was talking about, because he had been a member of one of the commissions for a great many years. He further said:

I was in Washington when all the independent commissions, except the Interstate Commerce Commission, were created and, either as a public official or as a newspaper man, was sufficiently in contact with the statesmen of that day—and they were statesmen—

Mr. Manly said—

who sponsored and guided the enabling legislation that established these agencies, who understand not only their objectives but also their fears for the future.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the statement made by Mr. Manly, beginning on page 183 of the hearings before the Committee on Expenditures in the Executive Departments on April 26, 1950.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF BASIL MANLY, VICE PRESIDENT AND DIRECTOR, SOUTHERN NATURAL GAS CO.; FORMER CHAIRMAN OF THE FEDERAL POWER COMMISSION

Mr. MANLY. My name is Basil Manly. My residence for the past 42 years has been Washington, D. C.

I was a member of the Federal Power Commission for 13 years, during which period I was unanimously elected by my fellow Commissioners as Vice Chairman for 5 years, and as Chairman to serve a 5-year term.

I resigned the chairmanship in October 1945 because I could not adequately provide for my family on the salary then being paid.

I am now vice president and director of Southern Natural Gas Co., a pipeline operating in Texas, Louisiana, Mississippi, Alabama, and Georgia. But I am as deeply and sincerely interested in the maintenance of effective regulation now as I was while in Government service, because I believe it is the only way to provide justice for both consumers and investors.

It is for this reason that I feel it my duty to oppose Reorganization Plan No. 9, which proposes in substance that the President shall appoint the Chairman of the Commission and that the Chairman shall have substantially full control of all executive and administrative functions, including specifically personnel, distribution of duties among administrative units, and the expenditure of funds.

These proposals taken together, in my opinion, would ultimately undermine and destroy the purposes for which the so-called independent Commissions were created; substantially interfere with the fair, impartial, and effective regulation of public utilities; and promote the establishment of bureaucratic dictatorships wielding enormous authority over both corporate and personal affairs.

I was in Washington when all the independent commissions, except the Interstate Commerce Commission, were created and, either as a public official or as a newspaperman, was sufficiently in contact with the statesmen of that day—and they were statesmen—who sponsored and guided the enabling legislation that established these agencies, to understand not only their objectives, but also their fears for the future.

Specifically, I knew President Wilson, Robert M. La Follette, George W. Norris, William S. Kenyon, Albert B. Cummins, Louis D. Brandeis, Gifford Pinchot, and the other leaders of that day who were either responsible for the enabling legislation or fixed the pattern on which the so-called independent commissions were established.

Those farsighted men were absolutely clear on a number of points which are germane to the present proposals. They conceived these Commissions as agencies of the Congress to which specific, limited powers were delegated. They held that they should be free from Executive control. They wanted to keep them out of politics, and to that end provided generally that not more than a majority of the members should belong to any one political party. They provided for their appointment, on a staggered basis, for fixed terms and subject to confirmation by the Senate so that Executive control would be difficult even after a number of years.

In none of the earlier Commissions was the Chairman appointed by the President, the office being either filled by vote of the members or rotated on an annual basis.

It is true that in some of the more recently established Commissions the President was authorized to select the Chairman. But, as long as the office is primarily a position of honor charged with the performance of the routine administrative duties necessary to effectuate policy decisions, personnel appointments, and fund allocations made by the Commission as a whole, such Presidential selection is of secondary importance.

It is only when presidential appointment is combined with the exaltation of the chairmanship by possession of control over personnel, funds, and allocation of duties that it becomes dangerous to the continuing existence of the Commissions as independent

agencies clothed with quasi-legislative and quasi-judicial authority.

Any strong chairman who is given control of personnel appointments, promotions, and fund allocations will inevitably govern the staff and thus strongly influence, if he does not absolutely control, the quasi-legislative and quasi-judicial activities of the Commission. For it must be constantly remembered that the records upon which the decisions of the Commission must necessarily be based are made by the staff and not by the members of the Commission. In this they differ from the courts which are in constant control of their own records.

If a Chairman endowed with such plenary administrative authority is weak, on the other hand, he will almost inevitably be controlled by the staff, who are permanent expert employees and almost invariably know exactly what they want and how to achieve it.

It is only when the appointments and promotions of all keymen, not merely bureau heads, and the allocation of duties and funds are constantly subject to approval by all the members of a Commission that such agency can be sure of controlling its regulations, decisions, and other activities.

The dangers arising from centralized executive control of the so-called independent Commissions have been enormously increased by certain recent decisions of the United States Supreme Court. There are several decisions which have increased the authority of the administrative agencies and correspondingly restricted the scope of judicial review, but I refer particularly to the Chenery case (*S. E. C.* v. *Chenery Corp.* (332 U. S. 194)) and the Engineers case (*S. E. C.* v. *Central-Illinois Securities Corp.* (388 U. S. 96)).

"These two decisions taken together"—

Senator JOHNSON of Colorado has recently declared—

"hold in effect that an administrative agency's action does not require the sanction of any law, judicial precedent, rule, or regulation, but may be based solely upon the agency's administrative experience so long as it is 'consistent with' or 'not contrary to' the statute under which it operates."

Senator JOHNSON has introduced a bill (S. 3076) designed to correct this situation and has written Senator MCCARRAN, chairman of the Judiciary Committee, a letter analyzing these decisions and accurately portraying their effects on the jurisdiction and powers of the independent Commissions.

It has not yet been printed in any official publication; so, with the approval of your committee, I request that it be included as a part of these proceedings.

The CHAIRMAN. What is that?

Mr. MANLY. That is a letter from Senator JOHNSON to Senator MCCARRAN analyzing the effect of those two decisions.

The CHAIRMAN. Do you have a copy of the letter?

Mr. MANLY. Yes, sir; I have a copy of the letter.

The CHAIRMAN. In other words, the letter is not a secret document?

Mr. MANLY. The letter is in no sense a secret document, sir; but, so far as I know, it has not been printed in any official publication, such as the CONGRESSIONAL RECORD.

The CHAIRMAN. Do you think it is pertinent?

Mr. MANLY. I think it is very germane to this situation of the really unrestricted power, practically, which the courts by these two decisions have conferred upon the independent Commissions, and which, I think, has a very great bearing upon the centralization of those powers in a single man.

The CHAIRMAN. All right, you may submit the letter. We will pass upon it.

Mr. MANLY. Yes, thank you, sir.

I should like, however, at this time to read a brief excerpt from the letter which summarizes Senator JOHNSON's view.

"These decisions"—

He concludes—

"place the commissions 'above the law.' They place those agencies above the courts and above the Congress. They have, in fact, created a new super-government having all the characteristics of a dictatorship, which need not even be consistent."

He quotes at this point from Justice Jackson's dissent.

" 'The truth is,' says Justice Jackson, 'that in this decision the Court approves the Commission's assertion of power to govern the matter without'—and the 'without' is underscored in Justice Jackson's original dissent—'law, power to force the surrender of stock so purchased whenever it will, and power also to overlook such acquisitions if it so chooses.'

"We have therefore"—

Senator JOHNSON declares—

"a group of potentially lawless administrative dictatorships presiding over the destinies of all American citizens and corporations which are subject to their constantly expanding jurisdiction."

It is vital, therefore, to keep the present status and authority of these agencies, as defined by the Supreme Court, in mind in considering proposals to centralize the essential and controlling powers of each of those agencies in one man appointed by the President, whoever he may be.

I am a Democrat with the highest respect for the office of President, having held publice office under three of them, but I predict that if these great powers are concentrated in the hands of the Commission chairmen, the American Nation will soon have a series of one-man dictatorships ruling the activities of almost every kind of American enterprise and indirectly controlling the lives of all classes of American citizens.

I earnestly hope, therefore, that Reorganization Plan No. 9, and all similar plans affecting other independent Commissions, will be unfavorably reported by your committee and so overwhelmingly defeated by both Houses of Congress that they will not again be revived.

The CHAIRMAN. Senator LEAHY, do you have any questions?

Senator LEAHY. I have no questions, but I think we should have the letter.

The CHAIRMAN. Have you a copy of the letter with you?

Mr. MANLY. I thought I had, Senator, but I will see. If not, I will get one from Senator JOHNSON's office right away, and submit it to you.

The CHAIRMAN. You submit it here, and we will submit it to the entire committee to let them determine. Ordinarily we just admit things for the record, but since you say this has not been published, the only thing that occurred to me is whether it is a confidential letter that was not intended for publication. But anyway you submit it to us, and the committee will decide.

(The letter referred to by the chairman is on file with the committee.)

Mr. MANLY. It was not, but I will be very glad to do that, sir.

The CHAIRMAN. Thank you very much, Mr. Manly.

The VICE PRESIDENT. All time under the agreement has expired.

Mr. LUCAS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. LUCAS. Does the plan carry with it provision that a quorum call shall be had at the conclusion of the time for debate agreed upon?

The VICE PRESIDENT. It is not required that the Chair shall call for a quorum call, but the absence of a quorum can be suggested.

Mr. LUCAS. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Hayden	Martin
Anderson	Hendrickson	Millikin
Benton	Hill	Mundt
Brewster	Hoey	Neely
Bricker	Holland	O'Conor
Bridges	Humphrey	O'Mahoney
Butler	Hunt	Robertson
Byrd	Ives	Russell
Cain	Johnson, Colo.	Saltonstall
Capehart	Johnson, Tex.	Schoeppel
Chapman	Kem	Smith, Maine
Connally	Kilgore	Smith, N. J.
Darby	Knowland	Sparkman
Donnell	Leahy	Stennis
Douglas	Lehman	Taft
Dworshak	Long	Taylor
Eastland	Lucas	Thomas, Utah
Ecton	McCarran	Thye
Ellender	McCarthy	Tydings
Ferguson	McClellan	Watkins
Flanders	McFarland	Wherry
Fulbright	McKellar	Wiley
George	McMahon	Williams
Gillette	Magnuson	

The VICE PRESIDENT. A quorum is present.

The question is on agreeing to Senate resolution 254, disapproving Reorganization Plan No. 8.

Mr. JOHNSON of Colorado. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. MCCLELLAN (when the name of Mr. JOHNSTON of South Carolina was called). I am authorized to announce that the Senator from South Carolina [Mr. JOHNSTON] is absent by leave of the Senate, and that, if he were present and voting, he would vote "yea."

The roll call was concluded.

Mr. LUCAS. I announce that the Senator from New Mexico [Mr. CHAVEZ], the Senator from South Carolina [Mr. JOHNSTON], and the Senator from Oklahoma [Mr. THOMAS] are absent by leave of the Senate.

The Senator from California [Mr. DOWNEY] and the Senator from North Carolina [Mr. GRAHAM] are absent because of illness.

The Senator from Delaware [Mr. FREAR] is absent by leave of the Senate on official business.

The Senator from Rhode Island [Mr. GREEN] is absent by leave of the Senate on official business as a member of a subcommittee of the Committee on Foreign Relations investigating the security program of the Department of State and its foreign establishments.

The Senator from Kentucky [Mr. WITHERS] is detained on official business.

The Senator from Tennessee [Mr. KEFAUVER], the Senator from Oklahoma [Mr. KERR], the Senator from Pennsylvania [Mr. MYERS], and the Senator from Florida [Mr. PEPPER] are absent on public business.

The Senator from South Carolina [Mr. MAYBANK] is absent by leave of the Senate because of a death in his family.

The Senator from Montana [Mr. MURRAY] is absent because of a death in his family.

On this vote the Senator from New Mexico [Mr. CHAVEZ] is paired with the

Senator from Pennsylvania [Mr. MYERS]. If present and voting, the Senator from New Mexico would vote "yea," and the Senator from Pennsylvania would vote "nay."

I announce further that if present and voting, the Senator from Rhode Island [Mr. GREEN] would vote "nay."

Mr. SALTONSTALL. I announce that the Senator from South Dakota [Mr. GURNEY], the senior Senator from North Dakota [Mr. LANGER], the Senator from Michigan [Mr. VANDENBERG], and the junior Senator from North Dakota [Mr. YOUNG], are absent by leave of the Senate.

The Senator from Iowa [Mr. HICKENLOOPER] who is absent by leave of the Senate is paired with the Senator from Oregon [Mr. MORSE] who is also absent by leave of the Senate. If present and voting the Senator from Iowa would vote "yea," and the Senator from Oregon would vote "nay."

The Senator from Indiana [Mr. JENNER] is necessarily absent.

The Senator from Massachusetts [Mr. LODGE] is absent by leave of the Senate on official committee business.

The Senator from New Hampshire [Mr. TOBEY] who is absent on official business is paired with the Senator from Nevada [Mr. MALONE] who is detained on official business. If present and voting the Senator from New Hampshire would vote "nay," and the Senator from Nevada would vote "yea."

The Senator from Oregon [Mr. CORDON] is detained on official business.

The yeas and nays resulted—yeas 34, nays 37, as follows:

YEAS—34

Brewster	Eastland	McFarland
Bricker	Fulbright	McKellar
Bridges	George	Martin
Butler	Hayden	Millikin
Byrd	Hoey	Russell
Cain	Holland	Schoeppel
Capehart	Johnson, Colo.	Smith, Maine
Chapman	Johnson, Tex.	Stennis
Connally	Kem	Wherry
Darby	Long	Wiley
Donnell	McCarran	
Dworshak	McClellan	

NAYS—37

Aiken	Ives	Robertson
Anderson	Kilgore	Saltonstall
Benton	Knowland	Smith, N. J.
Douglas	Leahy	Sparkman
Ecton	Lehman	Taft
Ellender	Lucas	Taylor
Ferguson	McCarthy	Thomas, Utah
Flanders	McMahon	Thye
Gillette	Magnuson	Tydings
Hendrickson	Mundt	Watkins
Hill	Neely	Williams
Humphrey	O'Conor	
Hunt	O'Mahoney	

NOT VOTING—25

Chavez	Johnston, S. C.	Myers
Cordon	Kefauver	Pepper
Downey	Kerr	Thomas, Okla.
Frear	Langer	Tobey
Graham	Lodge	Vandenberg
Green	Malone	Withers
Gurney	Maybank	Young
Hickenlooper	Morse	
Jenner	Murray	

The VICE PRESIDENT. On this vote the yeas are 34, the nays are 37. A fewer number than the 49 required by law having cast their votes in the affirmative, the resolution of disapproval is rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Swanson, one of its reading clerks, informed the Senate that Hon. JOHN W. MCCORMACK, a Representative from the State of Massachusetts, had been elected Speaker pro tempore during the absence of the Speaker.

The message announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 7579. An act to extend the Rubber Act of 1948 (Public Law 469, 80th Cong.), and for other purposes;

H. R. 7941. An act to amend and supplement the Federal Aid Road Act, approved July 11, 1916 (39 Stat. 355), as amended and supplemented, to authorize appropriations for continuing the construction of highways, and for other purposes; and

H. R. 8199. An act to amend certain provisions of the act of May 25, 1948 (Public Law 554, 80th Cong.), relating to the Flathead Indian irrigation project.

ENROLLED BILLS SIGNED

The message further announced that the Speaker pro tempore had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 794. An act for the relief of certain contractors employed in connection with the construction of the United States Appraisers Building, San Francisco, Calif.; and

S. 2811. An act to amend section 1462 of title 18 of the United States Code, with respect to the importation or transportation of obscene matters.

TRANSACTION OF ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

UNITED STATES PARTICIPATION IN UNITED NATIONS—REPORT (H. DOC. NO. 598)

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting his fourth annual report on the activities of the United Nations and the participation of the United States, which, with the accompanying report, was referred to the Committee on Foreign Relations.

(For President's message, see today's proceedings of the House of Representatives, pp. 7517–7518.)

JOINT COMMITTEE ON NAVAJO-HOPI INDIAN ADMINISTRATION

The VICE PRESIDENT. Under Public Law 474, approved April 19, 1950, the Chair appoints the Senator from Arizona [Mr. MCFARLAND], the Senator from New Mexico [Mr. ANDERSON], and the Senator from Utah [Mr. WATKINS] members of the Joint Committee on Navajo-Hopi Indian Administration.

EXECUTIVE COMMUNICATIONS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

PROPOSED PROVISION PERTAINING TO FOREST SERVICE, DEPARTMENT OF AGRICULTURE (S. DOC. NO. 170)

A communication from the President of the United States, transmitting a proposed provision pertaining to cooperative range improvements, Forest Service, Department of Agriculture, fiscal year 1951 (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

AMENDMENT TO BUDGET RELATING TO NATIONAL CAPITAL HOUSING AUTHORITY (S. DOC. NO. 169)

A communication from the President of the United States, transmitting an amendment to the budget for the fiscal year 1951, involving a decrease of $39,600 for the National Capital Housing Authority (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

INVITATION TO DEDICATION OF CASCADE LOCKS-STEVENSON AIRPORT

The VICE PRESIDENT laid before the Senate a letter from the mayor of the city of Cascade Locks, Oreg., inviting the Senate to attend the dedication of the Cascade Locks-Stevenson airport, Oregon, on Sunday, May 28, 1950, which was ordered to lie on the table.

INVESTIGATION OF LAWS AND PROCEDURES RELATING TO INVESTIGATION AND PUNISHMENT OF SEXUAL PERVERSION PRACTICES

The VICE PRESIDENT. There is on the desk Senate Resolution 280, submitted on Friday, May 19, 1950, by the Senator from Alabama [Mr. HILL] for himself and other Senators, providing for an investigation of the laws and procedures with respect to investigation and punishment of sexual-perversion practices in the District of Columbia, and so forth. The resolution leaves blank the name of the committee to which the authority or direction is given.

The Chair has examined the resolution and also the rules providing for the allocation of legislative matters to the several committees.

The Chair thinks that the preponderance of claim to be asserted by any appropriate committee would be asserted by the Committee on Expenditures in the Executive Departments. Therefore, the Chair refers the resolution to that committee, and asks that the clerk may be authorized to insert the name of that committee in the body of the resolution.

Is there objection to having that done? The Chair hears none.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the VICE PRESIDENT:

A telegram in the nature of a memorial from Charles W. Heisser Post, 179, the American Legion, of Brooklyn, N. Y., signed by Ed Prokop, adjutant, remonstrating against the closing of the Birmingham Veterans' Hospital for paraplegics, at Van Nuys, Calif.; to the Committee on Labor and Public Welfare.

By Mr. MCMAHON:

A resolution of the Senate of the State of Connecticut, relating to the importation of rubber and other products; to the Committee on Finance.

(See resolution printed in full when laid before the Senate by the Vice President on May 11, 1950, p. 6970, CONGRESSIONAL RECORD.)

By Mr. SALTONSTALL (for himself and Mr. LODGE):

Resolutions of the General Court of the Commonwealth of Massachusetts; to the

Committee on Expenditures in the Executive Departments:

"Resolutions memorializing Congress to reject certain recommendations affecting veterans contained in the report of the Hoover Commission

"Resolved, That the General Court of Massachusetts hereby urges the Congress of the United States to reject the recommendations contained in the report of the Hoover Commission which propose: (1) That veterans' hospitals be removed from the jurisdiction of the Veterans' Administration and placed, with all other Government health services, under the control of the United Medical Administration; (2) that the veterans' insurance program, now in the hands of the Veterans' Administration, be lodged in a new Government corporation; (3) that the GI home loans, now administered by the Veterans' Administration, be placed under the control of another Government lending agency; and (4) that the veterans' right to preference in Government hiring policies be abolished; and be it further

"Resolved, That copies of these resolutions be sent forthwith by the secretary of the Commonwealth to the President of the United States, to the Presiding Officer of each branch of Congress, and to the Members thereof from this Commonwealth.

"In house of representatives, adopted May 9, 1950.

"LAWRENCE R. GROVE,
"Clerk.

"In senate, adopted in concurrence, May 15, 1950.

"IRVING N. HAYDEN,
"Clerk."

The VICE PRESIDENT laid before the Senate resolutions of the General Court of the Commonwealth of Massachusetts, identical with the foregoing, which were referred to the Committee on Expenditures in the Executive Departments.

RESOLUTIONS OF CATHOLIC WAR VETERANS OF WISCONSIN

Mr. WILEY. Mr. President, I send to the desk a statement prepared by me relating to resolutions adopted by the convention of the Catholic War Veterans of the State of Wisconsin, assembled at Oshkosh, Wis., on May 6, 1950, which I ask to have printed in the RECORD. I also ask unanimous consent that the resolutions adopted by that organization be appropriately referred and printed in the RECORD.

The VICE PRESIDENT. Without objection, the statement presented by the Senator from Wisconsin will be printed in the RECORD, and the resolutions will be appropriately referred and printed in the RECORD. The Chair hears no objection.

The statement presented by Mr. WILEY is as follows:

STATEMENT BY SENATOR WILEY

CWV CONVENTION IN OSHKOSH

Mr. President, all of us in the Senate try to keep up with important meetings of significant organizations in our State. I have been most happy in this connection to follow in the general press and in the Catholic lay and religious press, reports of the 1950 department convention of the Catholic War Veterans of Wisconsin.

I note, for example, in the latest issue of the La Crosse Register a write-up of the important address given by Father Joseph D. Barry of Notre Dame University who stated that Catholicism stands side by side with other Christian forces in the fight against the anti-Christ. At this convention, too, eight distinguished Wisconsin clergymen and laymen were cited for their outstanding religious and civic work in 1949 and received awards at the annual banquet. The La Crosse Register lists the recipients of the awards as follows:

Bishop Stanislaus V. Bona of Green Bay, Abbot B. H. Pennings of De Pere, and F. J. Sensenbrenner of Neenah received recognition for advancement of religious and civic interests; Dr. Archie Skemp of La Crosse was cited for aid in the resettlement of 65 DP families on farms in Wisconsin and Minnesota.

Others cited were Father Erwin Van Handel, Madison, State chaplain; the retiring commander, Elmer F. Briesemeister of South Milwaukee; Martin Hanegraf, Kimberly, accredited representative to the VA for the CWV State department; and Robert Pieper of Milwaukee, official photographer.

I should like now to list the newly elected officers of the Catholic War Veterans of my State and to express to them my sincerest congratulations:

"Father Charles A. Brady, pastor of St. Patrick's Parish, Senaca, was named the CWV chaplain. Other officers chosen are Donald F. Runnoe, of Marinette, first vice commander; Ray Wundrock, Milwaukee, second vice commander; and Frank Ott, Milwaukee, third vice commander. Al H. Stoegbauer, of Appleton, was reelected treasurer, and Henry Woyach, of Milwaukee, was reelected adjutant.

"Other departmental officers are Frank Schmitz, Milwaukee, welfare officer. Martin Hanegraf, Kimberly, representative to the VA; John Wittig, Milwaukee, judge advocate; Frank Logas, Sheboygan, officer of the day; Dr. Charles B. Larkin, Madison, medical officer; and Miss Leona Singer, Milwaukee, historian. William Lundy, of Appleton, and Frank Evans, of Milwaukee, were chosen trustees for 3-year terms."

APPLYING RELIGION IN ALL OF MAN'S AFFAIRS

Mr. President, I have commented previously on the Senate floor on the subject of the fine work being done by the CWV throughout our country. I have presented these comments particularly because I have always felt that organizations like the CWV demonstrate that the practice of one's religion is not just a 1- or 2-day-a-week affair; the truly religious man applies the highest principles of his faith in his daily contact with his fellow workers, fellow farmers, fellow businessmen, and for example in his contact with his ex-servicemen buddies.

HOLY YEAR CONVENTION IN MILWAUKEE

I am particularly glad to invite reference to the Catholic War Veterans because the largest city of my State, Milwaukee, a great convention center, will be honored by the presence of the national convention of the CWV commencing June 15. According to the April issue of the Catholic Vet, published in Milwaukee, a memorable program of entertainment and inspiration has been scheduled for the visiting Catholic veterans from all over the Nation—a tremendous ball, a mammoth parade, a huge patriotic rally in the Municipal Auditorium, award of trophies to bands and drum corps, and other fine features. The motto of the CWV, "For God, for Country, and for Home" will be fully realized by the work of the convention. This is the holy-year convention of the CWV which naturally lends particular significance to the proceedings.

RESOLUTIONS ADOPTED AT OSHKOSH

Now, Mr. President, I have in my hands a series of helpful resolutions adopted by the May 1950 Oshkosh convention on various issues. For example, one resolution pertains to the United Nations recognition of the work of Divine Providence, and I certainly want to add my voice once again on this vital issue of bringing Christ with us to the conference table in all of our international gatherings. Another resolution presents the continued and well-justified opposition of the CWV to socialized medicine—and I certainly here again endorse the sentiments of the CWV. Another resolution rightly calls for opposition to recognition of the Communist government in China. Another resolution is against legal recognition of mercy killings, etc. Still another resolution urges participation by the Spanish Government in the Marshall plan—a matter which we had hoped to secure by the recent amendment offered by the able Senator from Nevada [Mr. MCCARRAN] to the ECA bill which was unfortunately defeated. I shall, of course, continue to support this effort as I have in the past.

If time allowed, I would be glad to comment on all of the other resolution issues, such as outlawing the Communist Party, providing mailing privileges for disabled veterans, the problem of educational aid, etc.

I do, however, want to ask unanimous consent that there be appended to my statement at this point the text of these terse and clear resolutions adopted by the Catholic War Veterans of Wisconsin.

The resolutions submitted by Mr. WILEY were referred as indicated:

To the Committee on Armed Services:

"Resolution on peacetime conscription

"Whereas the present Draft Act expires June 24, 1950, and extension of the act is presently being considered by Congress; and

"Whereas, such an idea is foreign to the tradition of this American Republic and contrary to the fundamental principles established by the Constitution and the Bill of Rights; and

"Whereas it has long been the opinion of the Catholic War Veterans that a more adequate defense force could be built with a lower cost of providing Military Training for our growing youth in high schools and colleges for those attending, and in encouraging enlistment in the National Guard, or organized reserves for those in a position to do so: Be it therefore

"Resolved, That the Catholic War Veterans of the State of Wisconsin, in Convention assembled at Oshkosh, Wisconsin, this sixth day of May 1950, actively continue to oppose the extension of the present Draft Act."

To the Committee on Post Office and Civil Service:

"Resolution to provide free mailing privilege to disabled veterans in veterans hospitals

"Whereas the majority of those confined to Veterans' Administration Hospitals and Facilities are there because of wounds or illnesses incurred in the service of their country; and

"Whereas these veterans were granted the privilege of 'franking' their mail while in the service of their country, and are still in fact fighting the war from their hospital cots; Be it therefore

"Resolved, That the Catholic War Veterans of the State of Wisconsin, in Convention assembled at Oshkosh, Wisconsin, this sixth day of May 1950, go on record and actively encourage the enactment of such legislation which would grant to these veterans their war-time free-mailing privilege."

To the Committee on Rules and Administration:

"Resolution outlawing the Communist Party

"Whereas the Communist Party of the United States is and has been a part of the international organization espousing philosophy of government contrary to the United States form of life and government; and

"Whereas there is sufficient proof that the Communist Party in America has engaged in acts of sedition and treason toward the Government of the United States of America; and

"Whereas the plan of the international organization to destroy representative gov-

81ST CONGRESS
2D SESSION

S. RES. 254

IN THE SENATE OF THE UNITED STATES

APRIL 12 (legislative day, MARCH 29), 1950

Mr. JOHNSON of Colorado submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950

Reported adversely by Mr. O'CONOR

MAY 22 (legislative day, MARCH 29), 1950

Considered and disagreed to

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 8 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 254

RESOLUTION

Disapproving Reorganization Plan Numbered 8 of 1950.

By Mr. JOHNSON of Colorado

APRIL 12 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950
Reported adversely

MAY 22 (legislative day, MARCH 29), 1950
Considered and disagreed to

81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 513

REORGANIZATION PLAN NO. 9 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 9 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE FEDERAL POWER COMMISSION

March 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 9 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Federal Power Commission. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 9 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 9 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

FEDERAL POWER COMMISSION

Section 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Federal Power Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

Sec. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

Sec. 3. *Designation of Chairman.*—The functions of the Commission with respect to choosing a Chairman from among the commissioners composing the Commission are hereby transferred to the President.

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81st Congress, 2d Session | SENATE | Report No. 1563

REORGANIZATION PLAN NO. 9 OF 1950, PROVIDING FOR THE REORGANIZATION OF THE FEDERAL POWER COMMISSION

May 16 (legislative day, March 29), 1950.—Ordered to be printed

Mr. O'Conor, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany S. Res. 255]

The Committee on Expenditures in the Executive Departments, to whom was referred Senate Resolution 255, expressing disapproval of Reorganization Plan No. 9 of 1950 (reorganizing the Federal Power Commission), having considered the same, report unfavorably thereon, and recommend that the Senate do not approve the resolution.

[H. Doc. No. 513, 81st Cong., 2d sess.]

Message From the President of the United States Transmitting Reorganization Plan No. 9 of 1950, Providing for Reorganizations in the Federal Power Commission

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 9 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Federal Power Commission. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 9 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

Harry S. Truman.

The White House, *March 13, 1950.*

REORGANIZATION PLAN NO. 9 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

FEDERAL POWER COMMISSION

SECTION 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Federal Power Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may be law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

SEC. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

SEC. 3. *Designation of Chairman.*—The functions of the Commission with respect to choosing a Chairman from among the commissioners composing the Commission are hereby transferred to the President.

HEARINGS

The committee on April 24, 25, and 26, 1950, conducted hearings jointly upon resolutions of disapproval introduced in the Senate upon reorganization plans submitted to the Eighty-first Congress, second session, as follows:

Senate Resolution 253—Reorganization Plan No. 7 (Interstate Commerce Commission).

Senate Resolution 254—Reorganization Plan No. 8 (Federal Trade Commission).

Senate Resolution 255—Reorganization Plan No. 9 (Federal Power Commission).

Senate Resolution 256—Reorganization Plan No. 11 (Federal Communications Commission).

The testimony of 21 witnesses was heard. Three witnesses, Frederick J. Lawton, Director, Bureau of the Budget; James H. Rowe, former member of the Hoover Commission; and Harold Leventhal, representing the Citizens Committee for the Hoover Report, testified in favor of all four plans. Three witnesses, Senator Edwin C. Johnson, of Colorado, who introduced the resolutions of disapproval on the plans; Senator Ernest W. McFarland, of Arizona; and C. A. Miller, vice president and general counsel, American Short Line Railroad Association, testified in opposition to all four plans.

Basil Manly, former Chairman of the Federal Power Commission, testified in support of Senate Resolution 255, disapproving Re-

organization Plan No. 9, providing for the reorganization of the Federal Power Commission. A statement by Chairman Nelson Lee Smith of the Federal Power Commission endorsing Reorganization Plan No. 9 was submitted for the record. Commissioner T. C. Buchanan filed a statement opposing plan No. 9, excepting for Presidential designation of the Commission's Chairman.

THE COMMITTEE'S FINDINGS

The intent of Reorganization Plan No. 9 of 1950 is to transfer administrative responsibility for the operation of the Federal Power Commission from the Commissioners to the Chairman.

The single objective of plan No. 9 is to improve the organization, the administration, and the operation of the Federal Power Commission by providing clear-cut channels of authority, by strengthening management, and by eliminating confusion identified with "multi-headed" direction. It should be noted with all the emphasis that can be brought to bear that this reorganization plan in no way alters, modifies, or diminishes the substantive quasi-judicial or quasi-legislative functions of the Federal Power Commission which are vested by statute in the Chairman and the Commissioners or the Commission as a whole. Beyond successful refutation, plan No. 9 retains those substantive functions in the Commission as provided by law.

Nothing could be clearer than the statement of the President in his message transmitting plans Nos. 7 through 13 dealing with regulatory agencies to the Congress. It follows in part:

> In regard to the regulatory agencies, the plans distinguish between two groups of functions necessary to the conduct of these agencies. One group includes the substantive aspects of regulation; that is, the determination of policies, the formulation and issuance of rules, and the adjudication of cases. All these functions are left in the board or commission as a whole. The other group of functions comprises the day-to-day direction and internal administration of the complex staff organizations which the commissions require.
>
> These responsibilities are transferred to the chairmen of the agencies, to be discharged in accordance with policies which the commissions may establish. The chairman is to be designated in each agency by the President from among the commission members.

It is equally clear that the Commission on Organization of the Executive Branch of the Government was firmly convinced that the consummation of its recommendations, upon which plan No. 9 is based, would have no effect whatsoever upon the quasi-judicial or the quasi-legislative functions of any regulatory agency. In referring to its important recommendation that all administrative responsibility be vested in the Commission Chairman, the Hoover Commission stated:

> This recommendation does not derogate from the statutory responsibilities placed upon the other members of the Commission. They remain exactly as they are, and because of the better functioning of the organization the Commission members will be enabled to discharge these responsibilities much more effectively.

Plan No. 9 accomplishes the objective of the Commission on Organization centering administrative responsibility for day-to-day operations of the Federal Power Commission in its Chairman by (1) transferring (subject to the limitations hereafter defined) of all executive functions to the Commission Chairman and (2) authorizing

the Chairman to delegate these functions to officials, employees, and staff units of the Commission.

Such action is squarely in accord with recommendations of the Hoover Commission, not only in its first Report on General Management of the Executive Branch (recommendation 14, "Heads of departments must have full responsibility for conduct of their departments"; recommendation 18, "Each department head should receive from Congress administrative authority to organize his department"; recommendation 20, "The department head should be given authority to determine the organization within his department"); but more specifically in its Report on Regulatory Commissions (recommendation 1, "We recommend that all administrative responsibility be vested in the Chairman of the Commission," and recommendation 6, "That the statutes be amended to permit commissions to delegate routine * * * work to members of [their] staffs.")

In reaching the conclusions upon which the above recommendations were based the Commission on Organization found that—

> administration by a plural executive is universally regarded as inefficient * * *. Indeed, those cases where administration has been distinctly superior are cases where the administrative as distinguished from the regulatory duties have been vested in the Chairman (Report on Regulatory Commissions, p. 5).

Elsewhere the Commission on Organization observed:

> Purely executive duties—those that can be performed far better by a single administrative official—have been imposed upon these Commissions with the result that these duties have sometimes been performed badly. The necessity for performing them has interfered with the performance of the strictly regulatory functions (Report on Regulatory Commissions, p. 3) * * *.
>
> Administrative direction has not developed within the Commission. Their Chairmen are too frequently merely presiding officers at Commission meetings. No one has been responsible for planning and guiding the general program of Commission activity (Report on Regulatory Commissions, p. 4).

The Commission on Organization emphasized throughout its discussions of the regulatory commissions that the administrative burden has become so great upon individual commissioners that they are often forced to neglect their more vitally important substantive quasi-judicial functions. Plan No. 9 would correct this intolerable situation.

Section 1 of plan No. 9, which transfers administrative functions to the Federal Power Commission Chairman relating to (1) the appointment and supervision of personnel, (2) the distribution of Commission business, and (3) the use and expenditure of funds, is rigidly limited. The Chairman would be governed by the general policies, regulatory decisions, and determinations of the Commission. The appointment by the Chairman of the heads of the major administrative units would be subject to full Commission approval. Full-time personnel regularly employed in the immediate offices of the individual Commissioners would not be affected by the plan. And, finally, the functions relating to revising budget estimates and to determining the distribution of appropriated funds to major programs would be reserved specifically to the Commission and not vested in the Chairman. In the view of such restrictions it is difficult to see how the Chairman could misuse the new administrative powers vested in him even if he were inclined to do so.

Much unfounded concern has been expressed that plan No. 9 would "vitiate" the Administrative Procedure Act of 1946 with relation to the independent responsibilities of hearing examiners. In the judg-

ment of the majority of the Committee on Expenditures in the Executive Departments this allegation is entirely without merit.

As stated previously, the plan affects administrative matters only. In no way do its provisions affect substantive functions nor quasi-judicial procedure. The provisions of the Administrative Procedure Act relating to the separation of responsibilities of the Government's quasi-judicial bodies fully apply. That act includes specific protections as follows:

1. It provides for an internal separation of these two responsibilities so that the same individual cannot exercise both functions (sec. 5c).
2. It provides that no one who has participated in the prosecution of a case shall participate in or even advise in the decision of the regulatory commission or the hearing examiner.
3. It provides that the hearing examiners, and the commissions when hearing cases on appeal, must make the decision in each case solely from the evidence, briefs, and oral arguments submitted on the record in connection with the quasi-judicial proceeding (sec. 7d).

Even a casual study of the provisions of plan No. 9 reveals that the administrative functions transferred in no way relate to the separation of responsibilities provided for by the Administrative Procedure Act. Any view to the contrary is difficult to successfully defend.

It was contended at the hearings that the plan would vest in the Chairman the right to hire and fire hearing examiners without recourse to the Commission, and that he might influence decisions on cases which met his approval by assignments to examiners who were inclined to the same views. The facts do not bear out these contentions inasmuch as hearing examiners cannot be appointed by the Chairman alone without Commission approval, and adequate protections are contained in the Administrative Procedure Act relative to assignment of cases on a rotation basis, which the Chairman could not ignore. The fact that hearing examiners were not specifically exempted in plans Nos. 7 to 13, as they were in plans Nos. 1 to 6, is due to the provision in the Administrative Procedure Act which adequately covers the appointment and supervision of such hearing examiners.

The majority report on Reorganization Plan No. 7 contends that the power of appointment and supervision of hearing examiners might be vested in the Chairman, and indicates that they would be in a position under the authority granted in Reorganization Plans Nos. 7 to 13 to exercise arbitrary control over their decisions. With this contention the majority of the committee favoring Reorganization Plan No. 9 is in complete disagreement.

In addition to the above, it is obvious that plan No. 9 transfers no functions, administrative or otherwise, to the Chairman of the Federal Power Commission which are not presently vested in the Commission itself. It follows, therefore, that if adoption of the plan violates the Administrative Procedure Act the Federal Power Commission has operated in violation of the act ever since its approval because the administrative functions transferred to the Chairman, have, without exception, been previously vested in the Commission itself.

The designation of the Federal Power Commission Chairman by the President would provide an entirely normal channel of communication

to the Commission without impairing its independence in any way. The alleged "inherent dangers" which some witnesses projected into the future simply do not exist in fact as was proved conclusively during the committee hearings when witnesses were unable to cite any evidence whatsoever of Presidential domination of the chairmen of the five regulatory agencies which he presently appoints.[1]

With respect to designation of the Chairman, the President in his message to the Congress covering Reorganization Plans Nos. 1 to 13 of 1950, made perfectly clear the management objective sought:

* * * The designation of all chairmen by the President follows out the general concept of the Commission on Organization for providing clearer lines of management responsibility in the executive branch.

No other intent exists, no evidence has been presented of previous Executive domination of regulatory agencies, nor can anyone with reason project such a danger into the future because the facts plainly do not support such a fear.

CONCLUSION

The majority of the committee therefore, finds that: (1) Plan No. 9 in nowise affects the quasi-judicial functions of FPC; (2) it makes no changes whatsoever in the substantive statutes governing FPC; (3) it seeks only to establish administrative responsibility for the day-to-day operations of FPC.

The plan reflects the best judgment of the Commission on Organization, the best experience in the administration of regulatory commissions over the years and offers not only greatly improved efficiency, but long-range economy. Viewed objectively it marks a tremendous stride toward better government at lower cost.

For these reasons the Senate Committee on Expenditures in the Executive Departments recommends Senate Resolution 255, disapproving Reorganization Plan No. 9 of 1950, be rejected by the Senate.

[1] Federal Communications Commission, Civil Aeronautics Board, National Labor Relations Board, Maritime Commission, and Federal Reserve Board. The approval of the acts creating these Commissions containing provisions for the appointment of the Chairmen of these agencies by the President, will, insofar as plan No. 9 is concerned, simply reaffirm its own decision on this issue.

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81ST CONGRESS
2D SESSION

S. RES. 255

IN THE SENATE OF THE UNITED STATES

APRIL 12 (legislative day, MARCH 29), 1950

Mr. JOHNSON of Colorado submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 9 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 255

RESOLUTION

Disapproving Reorganization Plan Numbered 9 of 1950.

By Mr. JOHNSON of Colorado

APRIL 12 (legislative day, MARCH 29), 1950

Referred to the Committee on Expenditures in the Executive Departments

Calendar No. 1572

81ST CONGRESS
2D SESSION

S. RES. 255

[Report No. 1563]

IN THE SENATE OF THE UNITED STATES

APRIL 12 (legislative day, MARCH 29), 1950

Mr. JOHNSON of Colorado submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950

Reported adversely by Mr. O'CONOR

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 9 transmitted to Congress by the President on March 13, 1950.

Calendar No. 1572

81ST CONGRESS
2D SESSION

S. RES. 255

[Report No. 1563]

RESOLUTION

Disapproving Reorganization Plan Numbered 9 of 1950

By Mr. JOHNSON of Colorado

APRIL 12 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950
Reported adversely

EXTENSION OF FEDERAL OLD-AGE AND SURVIVORS INSURANCE SYSTEM—AMENDMENT

Mr. LEHMAN. Mr. President, I submit an amendment intended to be proposed by me to the committee amendment to the bill (H. R. 6000) to extend and improve the Federal Old-Age and Survivors Insurance System, to amend the public-assistance and child-welfare provisions of the Social Security Act, and for other purposes, and I ask unanimous consent that the amendment, together with a brief statement I have prepared on the subject, be printed in the RECORD.

The VICE PRESIDENT. The amendment will be received, printed, and lie on the table, and, without objection, the amendment and statement will be printed in the RECORD.

The amendment submitted by Mr. LEHMAN is as follows:

AMENDMENT TO H. R. 6000

On page 387, beginning with line 13, strike out all down to and including line 21 and insert in lieu thereof the following:

"SEC. 403. (a) (1) Paragraph (1) of section 1101 (a) of the Social Security Act is amended to read as follows:

"'(1) The term "State" includes Alaska, Hawaii, and the District of Columbia, and when used in titles I, IV, V, and X includes Puerto Rico and the Virgin Islands.'

"(2) Paragraph (6) of section 1101 (a) of the Social Security Act is amended to read as follows:

"'(6) The term "Administrator," except when the context otherwise requires, means the Federal Security Administrator.'

"(3) The amendment made by paragraph (1) of this subsection shall take effect October 1, 1950, and the amendment made by paragraph (2) of this subsection, insofar as it repeals the definition of 'employee,' shall be effective only with respect to services performed after 1950."

The statement presented by Mr. LEHMAN is as follows:

STATEMENT OF SENATOR LEHMAN ON INTRODUCTION OF AMENDMENT TO SOCIAL SECURITY BILL TO EXTEND COVERAGE TO PUERTO RICO AND THE VIRGIN ISLANDS

I have today introduced an amendment to H. R. 6000 (social-security amendments) restoring to Puerto Rico and the Virgin Islands the benefits of the public-assistance program for aid to the aged, the blind, and to dependent children.

The House Committee on Ways and Means, after a careful on-the-spot study in Puerto Rico and the Virgin Islands, recommended the application of the pertinent social-security provisions to these territories. The House of Representatives supported that recommendation. The Senate should and will, I hope, correct the action of the Senate Finance Committee and will approve this amendment which will return H. R. 6000, in these respects, to its House-approved form.

The Secretary of the Interior has strongly recommended this action, pointing out that to extend the benefits of this program to the aged, blind, and dependent children of these Caribbean territories would be no more than simple justice, since they have an equal claim to Federal assistance if such assistance is to be given to persons in similar unfortunate circumstances in the continental United States.

I completely endorse Secretary Chapman's views. I think that to do otherwise would be to turn our backs upon not only what is necessary but upon what is right. I shall urge every Member of the Senate to support my amendment. The cost of this program to the Federal Government will be small. But whatever the cost, we cannot discriminate against these American citizens simply because they have no vote in Congress.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles, and referred, as indicated:

H. R. 7579. An act to extend the Rubber Act of 1948 (Public Law 469, 80th Cong.), and for other purposes; to the Committee on Armed Services.

H. R. 7941. An act to amend and supplement the Federal-Aid Road Act, approved July 11, 1916 (39 Stat. 355), as amended and supplemented, to authorize appropriations for continuing the construction of highways, and for other purposes; to the Committee on Public Works.

H. R. 8199. An act to amend certain provisions of the act of May 25, 1948 (Public Law 554, 80th Cong.), relating to the Flathead Indian irrigation project; to the Committee on Interior and Insular Affairs.

EXECUTIVE MESSAGE REFERRED

As in executive session,

The VICE PRESIDENT laid before the Senate a message from the President of the United States submitting the nomination of J. Alston Adams, of New Jersey, to be a member of the Home Loan Bank Board, which was referred to the Committee on Banking and Currency.

EXECUTIVE REPORT OF A COMMITTEE

As in executive session,

The following favorable report of a treaty was submitted:

By Mr. CONNALLY, from the Committee on Foreign Relations:

Executive D, Eighty-first Congress, second session, a treaty of friendship, commerce, and economic development with the Oriental Republic of Uruguay, signed at Montevideo on November 23, 1949; favorably (Ex. Rept. No. 5).

THE NEW SOUTH—ADDRESS BY THE SECRETARY OF THE TREASURY

[Mr. KEFAUVER asked and obtained leave to have printed in the RECORD an address delivered by the Secretary of the Treasury before the sixtieth annual convention of the Tennessee Bankers Association, in Memphis, Tenn., May 18, 1950, which appears in the Appendix.]

WRITINGS OF OWEN LATTIMORE REFLECT PRO-SOVIET VIEWS—ARTICLE BY DAVID J. DALLIN

[Mr. McCARTHY asked and obtained leave to have printed in the RECORD an article entitled "Writings of Owen Lattimore Reflect Pro-Soviet Views," written by David J. Dallin, and published in the magazine the New Leader for May 13, 1950, which appears in the Appendix.]

THE HISS CASE—ARTICLE BY NORBERT MUHLEN

[Mr. McCARTHY asked and obtained leave to have printed in the RECORD an article entitled, "The Hysteria of the Hisslings," written by Norbert Muhlen, and published in the New Leader, which appears in the Appendix.]

MR. TRUMAN, JUST WHO ARE THE ISOLATIONISTS?—STATEMENT BY SENATOR MUNDT AND EDITORIAL FROM THE DAILY PLAINSMAN

[Mr. MUNDT asked and obtained leave to have printed in the RECORD a statement prepared by him relative to American foreign policy, and an editorial from the Daily Plainsman, of Huron, S. Dak., which appear in the Appendix.]

FULL EMPLOYMENT—ADDRESS BY SENATOR LEHMAN, AND ARTICLE FROM THE NEW YORK TIMES

[Mr. LEHMAN asked and obtained leave to have printed in the RECORD an address on the subject of full employment and the dangers of creeping unemployment, delivered by him on May 18, 1950, before the annual convention of the Amalgamated Clothing Workers Union, Cleveland, Ohio, and an article from the New York Times giving the trends in unemployment, which appear in the Appendix.]

THE LADY WITH THE LAMP—POEM BY HARRY H. SCHLACHT

[Mr. LEHMAN asked and obtained leave to have printed in the RECORD a poem entitled "The Lady With the Lamp," written by Harry H. Schlacht and published in the New York Journal-American of May 11, 1950, which appears in the Appendix.]

EDITORIAL COMMENT ON THE RAILROAD STRIKE

[Mr. DONNELL, by separate requests, asked and obtained leave to have printed in the RECORD 12 newspaper editorials and articles regarding the recently settled railroad strike, which appear in the Appendix.]

ALL PRETENSE LOST—EDITORIAL FROM THE WALL STREET JOURNAL

[Mr. CAPEHART asked and obtained leave to have printed in the RECORD an editorial entitled "All Pretense Lost," published in the Wall Street Journal of May 17, 1950, which appears in the Appendix.]

REORGANIZATION PLAN NO. 9 OF 1950

Mr. JOHNSON of Colorado. Mr. President, I move the Senate proceed to the consideration of the resolution (S. Res. 255) pertaining to plan No. 9. So far as I am concerned, it will be agreeable to me to have either a voice vote or a yea-and-nay vote immediately. The arguments are entirely the same on both the resolutions, and I see no reason for not voting immediately.

The VICE PRESIDENT. The Secretary will state the resolution.

The legislative clerk read the resolution (S. Res. 255), as follows:

Resolved, That the Senate does not favor the Reorganization Plan No. 9 transmitted to Congress by the President on March 13, 1950.

The VICE PRESIDENT. The question is on the motion of the Senator from Colorado that the Senate proceed to the consideration of Senate Resolution 255.

Mr. LUCAS. I ask for the yeas and nays.

The yeas and nays were not ordered.

The motion was agreed to, and the Senate proceeded to consider the resolution (S. Res. 255) disapproving Reorganization Plan No. 9 of 1950.

Mr. LONG. Mr. President, I should like to have about 3 minutes in which to discuss the resolution, merely to make all issues clear, with the understanding that the opposition may also have 3 minutes.

The VICE PRESIDENT. Is there objection to a limitation of debate to 3 minutes on each side?

Mr. RUSSELL. Is the Chair submitting a unanimous-consent request to limit debate?

The VICE PRESIDENT. The Senator from Louisiana suggested it, and the Chair submitted it.

Mr. RUSSELL. I object.

The VICE PRESIDENT. The Senator from Louisiana.

Mr. LONG. Mr. President, I should like briefly to state my objections to this plan. When I first came into the Senate, I served for a while as a member of the Committee on Expenditures in the Executive Departments, which first studied these plans. I am in agreement with the chairman of that commitee that this plan, as well as the two we have thrown out, involves but one question. That is the question, Do we want these independent agencies to remain independent and to exercise their own independent judgment? These agencies as established were supposed to be bipartisan. If we give the President power to name the chairman, and if we place in the chairman the power to do all the hiring, firing, and housekeeping functions, that amounts to the President controlling the commission.

The hearings show, as read by the distinguished senior Senator from Arkansas, that the members of the Citizens Committee who were recommending the plan clearly said that they felt the Commission should reflect the judgment and the views of the administration entirely. When these agencies were established, Congress intended them to be bipartisan, and to carry out the will of Congress. They were not intended to reflect the views of the President or of the administration. In that respect the President has violated the whole idea of the Hoover Commission. The idea was not to take away from commissions their independent judgment and the independent exercise of their power and to make them reflect the views of the administration, but merely to see to it that they were more efficient and would carry out the will of Congress as bipartisan agencies and exercise certain powers assigned to them under acts of Congress.

Therefore, Mr. President, I submit that the Senate has correctly disposed of the Interstate Commerce Commission plan when it said it would preserve the bipartisan status of the Interstate Commerce Commission, and it correctly passed upon the Federal Communications Commission plan when it voted to preserve the independent status of that Commission. I believe we made a mistake when we voted to permit the President to control the Federal Trade Commission. I submit that we should go back to the sound judgment which the Senate exercised in the first two cases and save the independent bipartisan character of the Federal Power Commission.

Mr. CAPEHART. Mr. President, I feel that we should reject this proposal, for the simple reason that under it the President will be given authority to name the Chairman. I think we are making a very grave mistake when we approve reorganization plans which give the President of the United States—I care not what his politics may be—more power over independent agencies. Here is a plan providing for giving the President power to appoint the Chairman of the Federal Power Commission. Then we are to give the Chairman practically complete control over the Commission. I do not see how we can have a successful Commission that will act independently and in the best interests of the public if it is to be controlled politically. That is exactly what will happen.

I think it is wrong, Mr. President, I believe if these independent agencies are going to continue to be an arm of the Congress, they should be a real arm of the Congress. I do not believe we should give the President power to name the chairman, and then empower the chairman to operate the Commission as he sees fit, to choose the personnel, make the policies, and hire and fire employees. That would be getting completely away from the intent of Congress and away from any independence on the part of the Commission. If such a plan is to be followed, we might as well give up the idea that Commissions are to be arms of the Congress.

There is absolutely no saving of money involved; there is no economy involved. We hear some persons say that we should adopt the reports sent here by the President because money will be saved thereby. There is no saving of money involved. It might well work in the opposite direction. There might well be an increase in expenses, because the chairman would be in absolute control of the expenditure of the money of the Commission and of its policies. In my opinion, it is all wrong. I am surprised that the Senate is asked to vote away the authority of Congress over independent agencies and place more power in the hands of the Executive. I thought that was the thing we were trying to get away from in this country—less centralization of power, less dictatorial political power.

That was the original purpose in establishing these independent agencies. We are now asked to vote for a reorganization plan which would permit the President to name the chairman, and the chairman to pick the personnel, operate the agency, make its policies, and so forth. I am opposed to it, Mr. President. I think it is wrong, and I believe that if we approve the plan we shall see the day when we shall regret having done so.

Mr. O'CONOR. Mr. President, I should like a few minutes to speak of some of the questions involved, because some Members have not been made fully acquainted with the nature and the scope of this reorganization plan.

It is not true, as has been alleged, that if the plan be adopted there will be vested in the chairman of the Commission the power to determine the policies of the Commission. On the contrary, the President's reorganization plan specifically provides that the determination of policy shall be retained in the Commission and not be vested in the chairman. All that is done by this proposal is to give the chairman of the Commission authority over the day-to-day routine administrative functions, not to give him authority over policy.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. O'CONOR. If the Senator from Colorado will permit me to develop one point, I shall then be pleased to yield.

I refer, Mr. President, to the second section of the President's plan, which, after the several enumerated functions are spelled out, provides as follows:

> In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission, and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

In other words, in regard to anything which the Commission may determine as matters of policy, the Commission reserves to itself the handling of those functions. All that is vested in the chairman is the routine administration, which in no sense is a violation of the recommendations of the Hoover Commission.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. O'CONOR. If the Senator will permit me to develop a few more facts, I shall then be glad to yield.

Mr. President, it was revealed in the committee hearings, the majority of the committee having voted against the resolution of disapproval, that heretofore these commissions have been occupied with such inconsequential matters as the organization of work in stenographers' pools, as to the procedure to be followed in the distribution of mail, and the appointment of junior professional employees. Certainly, if the Commission is so important as the sponsors and advocates of the resolution insist, the Commission ought not to be occupied with such trivial and inconsequential matters. On the contrary, they should be vested in the chairman of the Commission.

It is said that the President should not appoint the chairman. Personally, I think the President can be trusted to appoint him. He is trusted with the appointment of the Chief Justice of the Supreme Court of the United States, and he appoints the members of the Federal Communications Commission, the CAB, the Maritime Commission, the Federal Reserve Board. Only last Friday, in the affirmative vote of the Senate in regard to Reorganization Plan No. 21, the plan in that proposal was that the membership remain as it has been in the past, the President appointing the chairman of the Commission. By our action last week we affirmed the policy of the Presidential appointment of chairmen of commissions.

Mr. JOHNSON of Colorado. Does not the Senator understand that under plan 9 the Chairman would be given complete authority over the examiners?

Mr. O'CONOR. I do not believe so.

Mr. JOHNSON of Colorado. The Senator stands alone in his belief.

Mr. O'CONOR. I certainly do not. To the contrary, under the Administrative Procedure Act no change would be made, and the Chairman would be governed by the Commission as a whole. The determination of matters which the Commission decided were questions of policy would be retained in the Commission, and the Chairman would not have authority to take unto himself such powers.

Mr. JOHNSON of Colorado. I regret that the Senator has not given the sub-

ject sufficient study, and I regret that he makes that statement, because the testimony is very plain that the Chairman of the Commission would appoint the examiners, assign their work, and determine what they would do. What could the other commissioners do if the Chairman exercised the power of determining what matters were to be examined into and what hearings were to be held? What could the other commissioners do?

I should like to call the attention of the Senator to what was said by Mr. Buchanan, who was one of the advocates of this proposal. He said:

> The term of a Federal Power Commissioner is presently 5 years. Therefore, a President in the fourth year of his term might select as Chairman the member of the Commission nominated by him and confirmed by the Senate during that year. Under the terms of plan 9 as applied to the old law, the Chairman so selected would serve as such not only during the fourth year of the Presidential term in which he was appointed, but likewise four years of the succeeding term even though there may be a change in the Presidential office.

That is what Mr. Buchanan said. He appeared in support of the President's plan No. 9. I think we should be deeply indebted to him. I have not discovered anyone who has found any fault with Mr. Buchanan's facts in regard to this proposal. This applies peculiarly to this one Commission, namely, the Federal Power Commission.

Mr. O'CONOR. In answer to the Senator from Colorado I should like to refer to the written statement of the Director of the Budget. Mr. Lawton, the Director of the Bureau of the Budget, states:

> Nothing in the reorganization plans nullifies or dilutes the provisions of the Administrative Procedure Act. In expressing this opinion, I am also stating the view of the Department of Justice.

The Commission is on record as approving the plan. Its Chairman, the Honorable Nelson Lee Smith, in speaking for the Commission in approving the President's plan, makes this statement:

> This Commission has, as a matter of practice, delegated to the chairman considerable authority over administrative and housekeeping functions. Plan No. 9 would confer extensive additional authority over that now delegated to the chairman except for control over the appointment of other than major administrative heads and the distribution of business among the personnel and administrative units.

That is all the additional work which would be vested in the chairman under the President's plan. I submit, Mr. President, that it is a sensible and businesslike method, and should be adopted.

Mr. CAPEHART. Mr. President, does the Senator claim that there will be any saving in money?

Mr. O'CONOR. The best answer I can make is that, of course, no jobs would be eliminated immediately. However, the Senator is a good businessman and knows that if in the handling of the Commission's business savings result to power companies all over the country, in delay, duplication, and continued hearings, the results will be reflected in savings to consumers. If that be the case, I submit that is a great saving in itself.

Mr. CAPEHART. Is it not a fact that the commission at the present time may by unanimous vote or agreement place in the hands of the chairman the powers which the reorganization plan would give to him?

Mr. O'CONOR. It is possible, but it is not mandatory. The fact that they have done it indicates that it can be done. However, I say to my good friend from Indiana that it is preferable to have a uniform procedure to govern the various agencies so that they will be acting under a mandate from Congress, and not make it possible for them to change their procedure every year. Certainly no harm could come from our approval of the proposed plan.

Mr. CAPEHART. Does not the Senator agree with me that if the President were to appoint the chairman the chairman would follow the President's wishes in every instance and would not be independent of the President?

Mr. O'CONOR. I have too much respect for a man who would accept such a position to believe that he would be under the control of the President. We have the same situation in the other agencies in which the chairmen are appointed by the President. Presumably in such cases the chairman would not be expected to follow the President's every whim. A self-respecting person would not do that. For example, I do not believe that the Chief Justice of the Supreme Court would do that.

Mr. CAPEHART. The Chief Justice is appointed for life.

Mr. LEHMAN. Mr. President, will the Senator yield?

Mr. O'CONOR. I am happy to yield.

Mr. LEHMAN. I think I can claim to have had some experience with regulatory commissions and boards, as well as with the appointment of members of such commissions and boards. So far as I recollect, I know of no commission in the State of New York the chairman of which is not appointed by the Governor of the State. That came about through the reorganization of the State government which was inaugurated by a very great governor of the State, one of my predecessors in office, the late Alfred E. Smith. That was done in 1924. I cannot speak with any authority with regard to other States, but I would be very greatly surprised to learn that any substantial number of States failed to give the governor of the State the power of appointment of chairmen of regulatory commissions or boards.

I think such practice gives the governor responsibility which does not exist in a board if it has the authority to choose its chairman. It has worked very well in every State that I know of. It has worked very well in the Federal Government. This reorganization plan does not give any powers of a policy-making nature to the chairman. I certainly hope that this resolution which has been presented in opposition to Plan No. 9 will be defeated.

Mr. O'CONOR. I concur in all that the Senator from New York has said. If I may refer to the experience in my own State, I should like to say that not only are such appointments made in the manner the Senator from New York has indicated they are made in his State, but in the State reorganization system of Maryland it was specifically provided in regard to certain commissions—and I take the industrial accident commission as an example only—that the chairman should exercise the administrative day-to-day functions, so that the other members of the commission would not be occupied with administrative detail. That is precisely what is provided for in the reorganization plan which is now before the Senate. That is what would be done in the Federal Government.

Mr. HUMPHREY. Mr. President, I wish to place in the RECORD at this time a few of the observations which were made by the majority of the Committee on Expenditures in the Executive Departments pertaining to plan No. 9. The Senator from Maryland has recited these observations in general terms, but the report, I think, would be a very important matter of legislative history in connection with this plan.

Section 1 of plan No. 9, referred to by the Senator from Louisiana, as well as the Senator from Maryland, which transfers administrative functions to the Chairman of the Federal Power Commission relating to, first, the appointment and supervision of personnel; second, the distribution of Commission business, and, third, the use and expenditure of funds, is rigidly limited.

The Chairman, for example, as was pointed out by the Senator from Maryland, would be governed by the general policies, regulatory decisions, and determinations of the Commission. The appointment by the Chairman of the heads of the major administrative units would be subject to full Commission approval. In other words, the Chairman of the Commission would have the power of nomination, but before any administrative head could receive appointment, the full Commission would have to approve.

Furthermore, full-time personnel regularly employed in the immediate offices of the individual Commissioners, would not be affected by the plan.

I believe this to be the most important qualification and limitation, quoting from the report:

> And, finally, the functions relating to revising budget estimates and to determining the distribution of appropriated funds to major programs would be reserved specifically to the Commission and not vested in the Chairman.

In other words, the amount of work which the Commission could do would be pretty well guarded and guided by the amount of funds appropriated and made available. The majority of the committee states:

> In the view of such restrictions it is difficult to see how the Chairman could misuse the new administrative powers vested in him even if he were inclined to do so.

The committee report proceeds in reference to trial examiners, to which the Senator from Colorado referred, stating:

> Much unfounded concern has been expressed that plan No. 9 would "vitiate" the

Administrative Procedure Act of 1946 with relation to the independent responsibilities of hearing examiners.

I believe the record was quite clear so far as the testimony was concerned when the majority report pointed out that—

It was contended at the hearings that the plan would vest in the Chairman the right to hire and fire hearing examiners without recourse to the Commission, and that he might influence decisions on cases which met his approval by assignments to examiners who were inclined to the same views. The facts do not bear out these contentions inasmuch as hearing examiners cannot be appointed by the Chairman alone without Commission approval—

In other words, a hearing examiner, who hears the testimony in a case, would have to have the approval of the full Commission before he could take office. I read further:

and adequate protections are contained in the Administrative Procedure Act relative to assignment of cases on a rotation basis.

Therefore there is not one thing the Chairman of the Commission could do to stop the normal process of rotating the cases among the trial examiners.

What is more important, the Administrative Procedure Act provides that no one who has participated in the prosecution of a case shall participate in or even advise in the decision of the regulatory Commission or the hearing examiner.

It also provides according to the report, "for an internal separation of these two responsibilities so that the same individual cannot exercise both functions."

Mr. President, it appears to me that in view of the recommendations of the Hoover Commission, which are quite precise in the matter of administrative reorganization, insofar as regulatory commissions are concerned, this plan falls in line with what we just voted upon, plan No. 8. There is not an iota of difference between plan 8 and plan 9. The plans are absolutely identical, and I say to the Senator from Colorado that his proposal that we vote upon them without discussion was a very meritorious one, because the argument has been made again and again, insofar as the efficiency of the reorganization plans is concerned, to plan 8 and plan 9.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from Louisiana.

Mr. LONG. There seems to me to be something of a conflict between the action the committee took on the Interstate Commerce Commission plan and the plan now under consideration. Which Senators voted to report favorably the Interstate Commerce Commission plan and which Senators voted to report unfavorably the plan we are now considering?

Mr. HUMPHREY. The Senator's observation is quite correct.

Mr. LONG. It seems to me someone has been inconsistent, I do not know who. I should like to know.

Mr. HUMPHREY. Insofar as the Senators who have spoken in behalf of the plan on the floor of the Senate are concerned, the Senator from Maryland, the Senator from Minnesota, and the Senator from Connecticut, all members of the Committee on Expenditures in the Executive Departments, have voted consistently in support of the reorganization plan. I believe the vote was 7 to 4 in support of plan No. 9.

In reference to plan 7, the vote was 6 to 5. There was a shift of one vote. I might point out that I felt that the vote resulted in a wrong recommendation on the part of the committee. But there were extenuating circumstances in reference to the Interstate Commerce Commission and its duties as compared with the Federal Power Commission, which some members of the committee felt were overpowering.

Mr. LONG. Will the Senator tell us for the RECORD what Senators voted for the resolution relating to the Interstate Commerce Commission plan, and what Senators voted against the resolution involving the pending plan?

Mr. HUMPHREY. I should be more than happy to do so, since it is more or less a matter of public record. The votes were taken in open session.

With reference to Resolution 255——

Mr. LONG. That is the one the Senate is considering, is it not?

Mr. HUMPHREY. Yes; the Senate committee voted to report that resolution unfavorably, by a vote of 7 to 4. The following Senators voted in behalf of the President's plan and against the resolution: The Senator from North Carolina [Mr. HOEY], the Senator from Maryland [Mr. O'CONOR], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Rhode Island [Mr. LEAHY], the Senator from Connecticut [Mr. BENTON], the Senator from New York [Mr. IVES], and the Senator from South Dakota [Mr. MUNDT].

Those who voted for the resolution were the Senator from Wisconsin [Mr. MCCARTHY], the Senator from Maine [Mrs. SMITH], the Senator from Kansas [Mr. SCHOEPPEL], and the Senator from Arkansas [Mr. MCCLELLAN].

In reference to Resolution 253, Plan No. 7, the resolution of disapproval was reported favorably by a vote of 6 to 5. Those who voted against the plan and in favor of the resolution were the Senator from North Carolina [Mr. HOEY], the Senator from Wisconsin [Mr. MCCARTHY], the Senator from South Dakota [Mr. MUNDT], the Senator from Maine [Mrs. SMITH], the Senator from Kansas [Mr. SCHOEPPEL], and the Senator from Arkansas [Mr. MCCLELLAN].

Those who opposed the resolution of disapproval and supported the President's reorganization plan were the Senator from Maryland [Mr. O'CONOR], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Rhode Island [Mr. LEAHY], the Senator from Connecticut [Mr. BENTON], and the Senator from New York [Mr. IVES].

Mr. LONG. I thank the Senator.

The VICE PRESIDENT. The question is on agreeing to Senate Resolution 255.

Several Senators asked for the yeas and nays.

Mr. EASTLAND. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Hayden	Millikin
Anderson	Hendrickson	Mundt
Benton	Hill	Neely
Brewster	Hoey	O'Conor
Bricker	Holland	O'Mahoney
Bridges	Humphrey	Robertson
Butler	Hunt	Russell
Byrd	Ives	Saltonstall
Cain	Johnson, Colo.	Schoeppel
Capehart	Johnson, Tex.	Smith, Maine
Chapman	Kem	Smith, N. J.
Connally	Kilgore	Sparkman
Cordon	Knowland	Stennis
Darby	Leahy	Taft
Donnell	Lehman	Taylor
Douglas	Long	Thomas, Utah
Dworshak	Lucas	Thye
Eastland	McCarran	Tydings
Ecton	McCarthy	Watkins
Ellender	McClellan	Wherry
Ferguson	McFarland	Wiley
Flanders	McKellar	Williams
Fulbright	McMahon	Withers
George	Magnuson	
Gillette	Martin	

The VICE PRESIDENT. A quorum is present.

The question is on agreeing to Senate Resolution 255.

Mr. MCCLELLAN. I ask for the yeas and nays.

The yeas and nays were ordered, and the roll was called.

Mr. LUCAS. I announce that the Senator from New Mexico [Mr. CHAVEZ], the Senator from South Carolina [Mr. JOHNSTON], and the Senator from Oklahoma [Mr. THOMAS] are absent by leave of the Senate.

The Senator from California [Mr. DOWNEY] and the Senator from North Carolina [Mr. GRAHAM] are absent because of illness.

The Senator from Delaware [Mr. FREAR] is absent by leave of the Senate on official business.

The Senator from Rhode Island [Mr. GREEN] is absent by leave of the Senate on official business as a member of a subcommittee of the Committee on Foreign Relations investigating the security program of the Department of State and its foreign establishments.

The Senator from Tennessee [Mr. KEFAUVER], the Senator from Oklahoma [Mr. KERR], the Senator from Pennsylvania [Mr. MYERS], and the Senator from Florida [Mr. PEPPER] are absent on public business.

The Senator from South Carolina [Mr. MAYBANK] is absent by leave of the Senate because of a death in his family.

The Senator from Montana [Mr. MURRAY] is absent because of a death in his family.

On this vote the Senator from New Mexico [Mr. CHAVEZ] is paired with the Senator from Pennsylvania [Mr. MYERS]. If present and voting, the Senator from New Mexico would vote "yea," and the Senator from Pennsylvania would vote "nay."

I announce further that if present and voting, the Senator from Rhode Island [Mr. GREEN] would vote "nay."

Mr. SALTONSTALL. I announce that the Senator from South Dakota [Mr. GURNEY], the senior Senator from North Dakota [Mr. LANGER], the Senator from Michigan [Mr. VANDENBERG], and the

junior Senator from North Dakota [Mr. YOUNG] are absent by leave of the Senate.

The Senator from Iowa [Mr. HICKENLOOPER] who is absent by leave of the Senate is paired with the Senator from Oregon [Mr. MORSE] who is also absent by leave of the Senate. If present and voting the Senator from Iowa would vote "yea," and the Senator from Oregon would vote "nay."

The Senator from Indiana [Mr. JENNER] is necessarily absent.

The Senator from Massachusetts [Mr. LODGE] is absent by leave of the Senate on official committee business.

The Senator from New Hampshire [Mr. TOBEY] who is absent on official business, is paired with the Senator from Nevada [Mr. MALONE], who is detained on official business. If present and voting the Senator from New Hampshire would vote "nay," and the Senator from Nevada would vote "yea."

The yeas and nays resulted—yeas 37, nays 36, as follows:

YEAS—37

Brewster	Eastland	McClellan
Bricker	Ecton	McFarland
Bridges	Fulbright	McKellar
Butler	George	Martin
Byrd	Hayden	Millikin
Cain	Hendrickson	Russell
Capehart	Hoey	Schoeppel
Chapman	Holland	Smith, Maine
Connally	Johnson, Colo.	Stennis
Cordon	Johnson, Tex.	Wherry
Darby	Kem	Wiley
Donnell	Long	
Dworshak	McCarran	

NAYS—36

Aiken	Kilgore	Robertson
Anderson	Knowland	Saltonstall
Benton	Leahy	Smith, N. J.
Douglas	Lehman	Sparkman
Ellender	Lucas	Taft
Ferguson	McCarthy	Taylor
Flanders	McMahon	Thomas, Utah
Gillette	Magnuson	Thye
Hill	Mundt	Tydings
Humphrey	Neely	Watkins
Hunt	O'Conor	Williams
Ives	O'Mahoney	Withers

NOT VOTING—23

Chavez	Johnston, S. C.	Murray
Downey	Kefauver	Myers
Frear	Kerr	Pepper
Graham	Langer	Thomas, Okla.
Green	Lodge	Tobey
Gurney	Malone	Vandenberg
Hickenlooper	Maybank	Young
Jenner	Morse	

The VICE PRESIDENT. On this vote the yeas are 37, the nays 36. A majority of the authorized membership of the Senate not having voted in the affirmative, the resolution (S. Res. 255) is rejected.

REORGANIZATION PLAN NO. 5 OF 1950

Mr. WILEY. Mr. President, I move that the Senate proceed to the consideration of Senate Resolution 259, relating to Reorganization Plan No. 5.

The VICE PRESIDENT. The resolution will be read for the information of the Senate.

The resolution was read as follows:

Resolved, That the Senate does not favor the Reorganization Plan No. 5 of 1950 transmitted to Congress by the President on March 13, 1950.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Wisconsin.

The motion was agreed to; and the Senate proceeded to consider the resolution.

Mr. WILEY. Mr. President, the President has submitted to the Congress 21 reorganization plans. Thus far it appears that probably not more than five or seven of them will be rejected. Up to now we have voted against allowing five of those plans to go into effect.

Mr. President, I should like to speak very seriously to the assembled Senators in regard to what I think differentiates the issue in connection with this particular plan from the issue involved in many of the other plans which we have considered thus far.

In order that the Senate may briefly understand the issue, let me say that the plan would transfer to the Secretary of Commerce the over-all authority and direction in relation to the Patent Office, a judicial function of the Government. The plan would also transfer to the Secretary of Commerce all functions of the Civil Aeronautics Administration, the Weather Bureau, the Bureau of the Census, the Bureau of Public Roads, the National Bureau of Standards, the Coast and Geodetic Survey, the Bureau of Foreign and Domestic Commerce, the Inland Waterways Corporation, and the Office of the Secretary.

In the case of the agencies I have just enumerated, there is no objection to the President's plan of reorganization. However, just why the President has included in the plan the transfer of the Patent Office is something which we should really consider.

I was informed, and so stated to the committee, that the Secretary of Commerce himself was opposed to having the Patent Office placed under his jurisdiction. The Secretary of Commerce appeared before the committee and denied that that was so. However, Mr. President, I could not have been mistaken in relation to his attitude at one time, because I now have before me a telegram from former President Hoover, reading as follows:

It is my understanding that the Secretary of Commerce, Sawyer, has already stated publicly that an exemption should be made for the Patent Office. Otherwise the plan should be passed.

Mr. President, let us consider what would happen in case this plan in its entirety were to go into effect.

I wish briefly to read from a manuscript which I have prepared, and then I shall take up the testimony adduced in regard on this matter.

I wish to say that every bar association in America whose members practice patent law is opposed to the proposed transfer of the Patent Office. Fundamental issues are involved in this case, for it is a case of placing a judicial arm or branch of the Government under an administrative head. It is not necessarily a case of permitting the present Secretary of Commerce to distintegrate the Patent Office; but, Mr. President, what would have happened if Henry Wallace had been handed that authority and function? What would have happened to the Patent Office if the leftists of 10 or 15 years ago had had control of the Patent Office, or if the Secretary of Commerce at that time had had control of the Patent Office?

Mr. DONNELL. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. CHAPMAN in the chair). Does the Senator from Wisconsin yield to the Senator from Missouri?

Mr. WILEY. I yield.

Mr. DONNELL. Would the Senator mind if there were incorporated in the RECORD at the conclusion of his remarks a copy of a resolution of the executive committee of the patent, trade-mark, and copyright section of the St. Louis Bar Association, which commences with the statement that—

Our section is unalterably opposed to Reorganization Plan No. 5, unless the Patent Office be exempted therefrom.

Mr. WILEY. I shall be happy to have that resolution follow my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The resolution appears in the RECORD at the conclusion of Mr. WILEY's remarks.)

Mr. WILEY. Mr. President, I may say that when this matter came to my attention, at the time when, in the Eightieth Congress, I was chairman of the Judiciary Committee, I immediately called for testimony regarding it, including the testimony of the former Secretary of Commerce. I wish to read from his testimony.

I may say that it is the unanimous opinion of all the patent lawyers in America and of the American patent bar, as indicated in the hearings, that this particular plan should not become law unless the Patent Office is absolutely removed from the jurisdiction of the Secretary of Commerce.

Mr. MUNDT. Mr. President, will the Senator yield?

Mr. WILEY. Mr. President, I prefer not to yield at this time. However, later I shall yield for discussion, if the Senator from South Dakota will permit me to proceed now with my remarks.

I may say that I wrote to the President and submitted the matter to him, suggesting that he withdraw the plan and remove from it the proposal for placing in the Secretary of Commerce jurisdiction over the Patent Office. However, so far as I know, I received no reply.

Under the Constitution the Congress should advise and consult with the President in relation to activities which, if they became a part of our administrative machinery, might result in the disintegration of the Government. Certainly today the maintenance of an independent judiciary, an independent executive branch of Government, and an independent legislative branch of Government is fundamental. Only day before yesterday, I was visited by a group of students from Milwaukee. I asked them, "Which is the oldest government on earth today?" They began to scratch their heads. They began to go back into antiquity. I said, "Oh, no; you do not have to do that. The oldest government in the world today is your Government, the

Government of the United States. Every other government has been modified and changed." Ours is the oldest government in the world today, because of the fact that we have maintained an independent judiciary, because of the fact that we have not permitted the Executive to get his clutches on the judiciary, as has happened in the case of other governments, and because of the fact that we have not permitted the Executive to control the legislative branch.

I may say that when I came here in 1939 I saw quite a bit of control. That was quite a serious period. At that time men of the Executive's own party stood up, as the founding fathers said should be done, to maintain the independence of the legislative branch.

I should like now to submit a brief point-by-point summary of the reasons why, on April 17, I offered Senate Resolution 259 to reject Reorganization Plan No. 5. This plan would, as my colleagues know, transfer to the Secretary of Commerce all functions of all other officers of the Department, and all functions of all agencies and employees of the Department. That is provided in section 1.

Then, in the second section, the Secretary is given a blank check, so that if he deems appropriate he may authorize the performance by any other office or by any agency or employee of any function whatsoever which was previously assigned to him in section 1, regardless of the qualifications or rank of the individual to whom the power will be delegated. In other words, the functions of the Commissioner of Patents, a high officer who is appointed by the President and approved by the Senate, would be taken over by the Secretary of Commerce under section 1 and could be redelegated, redefined on any partisan basis whatsoever, to any individual the Secretary of Commerce might designate.

Having reviewed the unlimited authority conferred by plan No. 5, let us now summarize the reasons for opposition to it. Let me say, Mr. President, I shall justify our opposition to such unlimited authority by quoting from some of the best legal minds of America, including the Secretary of Commerce himself, as to the power which is given him.

First. The Patent Office of the United States has been an independent unit since practically that day in 1790 when President Washington signed the first patent laws pursuant to constitutional provisions by which "the Congress shall have the power to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

In 1802 the Patent Office was given the status of a distinct unit in the Department of State, and it has in successive transfers to the Interior and Commerce Departments always remained an independent unit.

Second. Not only is the Patent Office an independent unit, but it is a judicial and quasi-judicial unit, as interpreted by many decisions of the United States Supreme Court. As such—as a judicial and quasi-judicial unit—the Patent Office is peculiarly immune to certain types of executive-branch directives. I base that statement also on the fact that the Supreme Court has always differentiated between executive-type bureaus and agencies in the executive branch and judicial and quasi-judicial types of such units. But it will be noticed, Mr. President, that the executive took the judicial and quasi-judicial types of units and mixed them up with the administrative unit.

Third. The patent system is a cornerstone of the American free-enterprise system. There is practically no single product, large or small, costly or cheap, no single company, no single industry, no single branch of agriculture, which is not based on a system of patent pillars. Any action which threatens to inject partisan politics into the administration of the patent system threatens the very foundation of the free-enterprise system. To give the Secretary of Commerce—and let me point out that we do not fear the present Secretary, but we do fear future Secretaries who might be of the type of Henry Wallace—to give that officer political powers over the Commissioner of Patents is to enable a single man to control the life and death of American industry.

Mr. KILGORE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from West Virginia?

Mr. WILEY. I prefer not to yield at this time, but I shall be glad to open up the discussion for questions later on.

Fourth. To prove the point that I have just cited let, me mention that if my colleagues and I have the time we could review a great body of literature in the 1930's produced by leftist thinkers, Communists, Socialists, so-called New Dealers, who denounced the patent system, who bitterly criticized it as an alleged tool of monopoly capitalism.

Senators will remember that literature. I remember that when I first came to the Senate it was still extant. People were still telling about the nefarious operations of folks who had obtained patents, and were saying what in their opinion should be done to the patent system of America. Such persons as I have just mentioned announce that if ever they got control of the Patent Office, they would destroy the patent system as we know it. They would adopt a system of compulsory licensing on all patents, practically speaking, thus breaking the exclusive right of inventors to their discoveries.

Mr. President, in this day, with the impact of Communists, with the impact of foreign isms, are we to permit something to occur which might be the entering wedge to further disintegrate the great economic and political system we have in this country? I do not think so.

Fifth. No one contends that this wholesale redelegation of powers to the Secretary of Commerce will save a single dime. There is no testimony in the RECORD to that effect. In other words, we are confronted with the plan on the alleged basis of promoting economy, which even its proponents admit will not bring about economy.

Sixth. All that we are urging is that the Congress reject Plan No. 5 and ask in good faith that the President resubmit the plan, writing in a specific exemption for the Patent Office.

He has already exempted other offices in this proposal. After all, he wrote in specific exemptions in this plan for the Civil Aeronautics Board, for the Inland Waterways Corporation, and so forth. The failure to write in a specific exemption for the Patent Office gives rise to deep suspicions on the part of the American people that the administration is planning wholesale changes in the Patent Office system.

Seventh. The Patent Bar of the United States is, according to all indications which I have received, unanimously opposed to reorganization plan No. 5. The American Bar Associaiton, State bar associations, the American Patent Law Association, have all passed resolutions again this plan. These distinguished practitioners of the law are not jealous of their prerogatives but they have dedicated themselves as trustees of the great patent system. It is not an act of selfishness on their part but an act of unselfishness, an act of devotion to the national welfare which prompts them to take this position.

Eighth. Let me point out that no Hoover Commission task force made any recommendation on the Patent Office even though former President Hoover, as an ex-Secretary of Commerce, was deeply familiar with the Patent Office machinery.

Let me repeat that statement: No Hoover Commission task force made any recommendation as to the Patent Office.

Why did they not consult some of the Members of the Senate? Who did the job? Why was the Secretary first quoted as being against this reorganization plan, and then, when he testified, say he was in favor of it? Former President Hoover said, "I understand that the Secretary is against it." I shall have something to say about his testimony.

Mr. MALONE. Mr. President, will the Senator yield?

Mr. WILEY. I prefer not to yield until I conclude my speech. Then I shall be glad to yield for questions. I have declined to yield to other Senators, and I should like to be consistent.

Mr. MALONE. I wanted to ask a brief question.

Mr. WILEY. I shall be glad to yield for a question.

Mr. MALONE. Does the Senator consider that the suggestion of placing the Patent Office under the jurisdiction of the Secretary of Commerce has anything to do with the attack on patents and the effort to make them available to persons who had nothing to do with the discoveries, thus depriving of protection the holders of patents?

Mr. WILEY. I commented on that very feature a short time ago. Apparently the Senator from Nevada was not present. There was a ground swell 10 or 20 years ago among many of the so-called leftist thinkers in America who thought it would be to the benefit of the

81ST CONGRESS
2D SESSION

S. RES. 255

IN THE SENATE OF THE UNITED STATES

APRIL 12 (legislative day, MARCH 29), 1950

Mr. JOHNSON of Colorado submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950

Reported adversely by Mr. O'CONOR

MAY 22 (legislative day, MARCH 29), 1950

Considered and disagreed to

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 9 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 255

RESOLUTION

Disapproving Reorganization Plan Numbered 9 of 1950.

By Mr. JOHNSON of Colorado

APRIL 12 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950
Reported adversely

MAY 22 (legislative day, MARCH 29), 1950
Considered and disagreed to

81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 514

REORGANIZATION PLAN NO. 10 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 10 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE SECURITIES AND EXCHANGE COMMISSION

March 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 10 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Securities and Exchange Commission. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 10 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

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Reorganization Plan No. 10 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

SECURITIES AND EXCHANGE COMMISSION

Section 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section there are hereby transferred from the Securities and Exchange Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

Sec. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of section 1 of this reorganization plan.

Sec. 3. *Designation of Chairman.*—The functions of the Commission with respect to choosing a Chairman from among the Commissioners composing the Commission are hereby transferred to the President.

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81st Congress, 2d Session | SENATE | Report No. 1685

REORGANIZATION PLAN NO. 10 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE SECURITIES AND EXCHANGE COMMISSION

May 19 (legislative day, March 29), 1950.—Ordered to be printed

Mr. O'Conor, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

By authority of the Reorganization Act of 1949 (Public Law 109, 81st Cong., 1st sess., June 20, 1949), the President of the United States has submitted to the Congress, Reorganization Plan No. 10, providing for reorganizations in the Securities and Exchange Commission.

This committee, although under no requirement to do so by that act, hereby reports favorably on Reorganization Plan No. 10 in order that the Senate may know the result of the committee's consideration thereof, and may have adequate information as to its provisions.

[H. Doc. No. 514, 81st Cong., 2d sess.]

Message From the President of the United States Transmitting Reorganization Plan No. 10 of 1950 Providing for Reorganizations in the Securities and Exchange Commission

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 10 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Securities and Exchange Commission. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 10 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

Harry S. Truman.

The White House, *March 13, 1950.*

Reorganization Plan No. 10 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

SECURITIES AND EXCHANGE COMMISSION

Section 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section there are hereby transferred from the Securities and Exchange Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

Sec. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of section 1 of this reorganization plan.

Sec. 3. *Designation of Chairman.*—The function of the Commission with respect to choosing a Chairman from among the Commissioners composing the Commission are hereby transferred to the President.

THE COMMITTEE'S FINDINGS

The intent of Reorganization Plan No. 10 of 1950 is to transfer administrative responsibility for the operation of the Securities and Exchange Commission from the Commissioners where it is presently lodged to the Chairman.

The single objective of plan No. 10 is to improve the organization, the administration, and the operation of the Commission by providing clear-cut channels of authority, by strengthening management and by eliminating confusion identified with multiheaded direction. It should be noted that this reorganization plan in no way alters, modifies, or diminishes the substantive quasi-judicial or quasi-legislative functions of the Securities and Exchange Commission which are vested by statute in the Chairman and the Commissioners or the Commission as a whole.

The President in his message transmitting plans Nos. 7 through 13 dealing with regulatory agencies to the Congress stated in part:

> In regard to the regulatory agencies, the plans distinguish between two groups of functions necessary to the conduct of these agencies. One group includes the substantive aspects of regulation—that is, the determination of policies, the formulation and issuance of rules, and the adjudication of cases. All these functions are left in the board or commission as a whole. The other group of functions comprises the day-to-day direction and internal administration of the complex staff organizations which the commissions require. These responsibilities are transferred to the chairman of the agencies, to be discharged in accordance with policies which the commissions may establish. The chairman is to be designated in each agency by the President from among the commission members.

The Commission on Organization of the Executive Branch of the Government indicated clearly that the consummation of its recommendations, upon which plan No. 10 is based, would have no effect upon the quasi-judicial or the quasi-legislative functions of any regulatory agency. In referring to its important recommendation that all administrative responsibility be vested in the Commission chairman, the Commission on Organization stated:

> This recommendation does not derogate from the statutory responsibilities placed upon the other members of the commission. They remain exactly as they are, and because of the better functioning of the organization the commission members will be enabled to discharget hese responsibilities much more effectively.

Plan No. 10 accomplishes the Commission on Organization's objective of centering administrative responsibility for day-to-day operations of the Securities and Exchange Commission in its Chairman by (1) transferring (subjcet to the limitations hereafter defined) of all executive functions to the Commission Chairman and (2) authorizing the Chairman to delegate these functions to officials, employees, and staff units of the Commission.

This accords with recommendations of the Hoover Commission, not only in its first Report on General Management of the Executive Branch (recommendation 14, "Heads of departments must have full responsibility for conduct of their departments"; recommendation 18, "Each department head should receive from Congress administrative authority to organize his department"; recommendation 20, "The department head should be given authority to determine the organization within his department") but more specifically in its Report on Regulatory Commissions (recommendation 1, "We recommend that all administrative responsibility be vested in the Chairman of the Commission," and recommendation 6, "That the statutes be amended to permit commissions to delegate routine * * * work to members of (their) staffs").

In reaching its conclusions upon which the above recommendations were based the Commission on Organization found that—

> administration by a plural executive is universally regarded as inefficient. * * * Indeed, those cases where administration has been distinctly superior are cases where the administrative as distinguished from the regulatory duties have been vested in the chairman (Report on Regulatory Commissions, p. 5).

Elsewhere the Commission on Organization observed:

> Purely executive duties—those that can be performed far better by a single administrative official—have been imposed upon these commissions with the result that these duties have sometimes been performed badly. The necessity for performing them has interfered with the performance of the strictly regulatory functions (Report on Regulatory Commissions, p. 3). * * *
>
> Administrative direction has not developed within the Commission. Their chairmen are too frequently merely presiding officers at Commission meetings. No one has been responsible for planning and guiding the general program of Commission activity (Report on Regulatory Commissions, p. 4).

The Commission on Organization emphasized throughout its discussions of the regulatory commissions that the administrative burden has become so great upon individual commissioners that they are often forced to neglect their more vitally import substantive quasi-judicial functions. Plan No. 10 is designed to correct this situation within SEC.

Section 1 of plan No. 10, which transfers the administrative functions to the Securities and Exchange Commission Chairman relating to (1) the appointment and supervision of personnel, (2) the distribution of Commission business, and (3) the use and expenditure of funds, is rigidly limited. The Chairman would be governed by the general policies, regulatory decisions and determinations of the Commission. The appointment by the Chairman of the heads of the major administrative units would be subject to full Commission approval. Full-time personnel regularly employed in the immediate offices of the individual Commissioners would not be affected by the plan. And, finally, the functions relating to revising budget estimates and to determining the distribution of appropriated funds to major programs would be reserved specifically to the Commission and not vested in the Chairman. In the view of such restrictions it is difficult indeed to see how the Chairman could misuse the new administrative powers vested in him even if he were inclined to do so.

Much concern has been expressed that plan No. 10 would "vitiate" the Administrative Procedure Act of 1946 with relation to the independent responsibilities of hearing examiners. In the judgment of the Committee on Expenditures in the Executive Departments this allegation is without merit.

As stated previously, plan No. 10 affects administrative matters only. In no way do its provisions affect substantive functions nor quasi-judicial procedure. The provisions of the Administrative Procedure Act relating to the separation of responsibilities of the Government's quasi-judicial bodies fully apply. Three specific protections in the act follow:

1. It provides for an internal separation of these two responsibilities so that the same individual cannot exercise both functions (sec. 5c).
2. It provides that no one who has participated in the prosecution of a case shall participate in or even advise in the decision of the regulatory commission or the hearing examiner.
3. It provides that the hearing examiners, and the commissions when hearing cases on appeal, must make the decision in each case solely from the evidence, briefs, and oral arguments submitted on the record in connection with the quasi-judicial proceeding (sec. 7d).

Plan No. 10, applies to administrative functions, and in no way relates to the separation of responsibilities provided for by the Administrative Procedure Act.

In addition to the above, plan No. 10 transfers no functions, administrative or otherwise, to the Chairman of the Securities and Exchange Commission which are not presently vested in the Commission itself. It follows, therefore, that if adoption of plan No. 10 violates the Administrative Procedure Act the Securities and Exchange Commission has operated in violation of the act ever since it was enacted because the administrative functions transferred to the Chairman without exception have been previously vested in the Commission itself.

The designation of the Securities and Exchange Commission Chairman by the President would provide an entirely normal channel of communication to the Commission without impairing its independence in any way. The alleged "inherent dangers" therein do not in fact exist as was proved conclusively during the committee hearings when witnesses opposing Reorganization Plans Nos. 7, 8, and 9 of 1950

which are identical with plan No. 10 were unable to cite any evidence whatsoever of Presidential domination of the Chairman of the five regulatory commissions which he presently appoints.[1]

With respect to designation of the Chairman, the President in his message to the Congress covering Reorganization Plans Nos. 1 to 13, 1950, made perfectly clear the management objective sought:

> * * * The designation of all chairmen by the President follows out the general concept of the Commission on Organization for providing clearer lines of management responsibility in the executive branch.

No other intent exists, no evidence has been presented of previous Executive domination of regulatory agencies, nor can anyone with reason project such a danger into the future because the facts plainly do not support such a fear.

CONCLUSION

The committee finds that: (1) plan No. 10 in nowise affects the quasi-judicial functions of SEC; (2) makes no changes whatsoever in the substantive statutes governing SEC; and (3) seeks only to establish administrative responsibility for the day-to-day operations of SEC.

The plan reflects the best judgment of the Commission on Organization, the best experience in the administration of regulatory commissions over the years, and offers not only greatly improved efficiency, but long-range economy. Viewed objectively it marks a tremendous strike toward better government at lower cost.

[1] FCC; CAB; NLRB; Maritime Commission, and Federal Reserve Board.

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81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 515

REORGANIZATION PLAN NO. 11 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 11 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE FEDERAL COMMUNICATIONS COMMISSION

March 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 11 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Federal Communications Commission. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 11 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 11 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

FEDERAL COMMUNICATIONS COMMISSION

Section 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Federal Communications Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

Sec. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

81ST CONGRESS
2D SESSION

S. RES. 256

IN THE SENATE OF THE UNITED STATES

APRIL 12 (legislative day, MARCH 29), 1950

Mr. JOHNSON of Colorado submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 11 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 256

RESOLUTION

Disapproving Reorganization Plan Numbered 11 of 1950.

By Mr. JOHNSON of Colorado

APRIL 12 (legislative day, MARCH 29), 1950

Referred to the Committee on Expenditures in the Executive Departments

Calendar No. 1573

81ST CONGRESS } SENATE { REPORT
2d Session } { No. 1564

REORGANIZATION PLAN NO. 11 OF 1950 PROVIDING FOR THE REORGANIZATION OF THE FEDERAL COMMUNICATIONS COMMISSION

MAY 16 (legislative day, MARCH 29), 1950.—Ordered to be printed

Mr. O'CONOR, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany S. Res. 256]

The Committee on Expenditures in the Executive Departments, to whom was referred Senate Resolution 256, expressing disapproval of Reorganization Plan No. 11 of 1950 (reorganizing the Federal Communications Commission), having considered the same, report unfavorably thereon, and recommend that the Senate do not approve the resolution.

[H. Doc. No. 515, 81st Cong., 2d sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING REORGANIZATION PLAN NO. 11 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE FEDERAL COMMUNICATIONS COMMISSION

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 11 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Federal Communications Commission. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 11 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 11 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

FEDERAL COMMUNICATIONS COMMISSION

Section 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Federal Communications Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

Sec. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

HEARINGS

The committee on April 24, 25, and 26, 1950, conducted hearings jointly upon resolutions of disapproval introduced in the Senate on reorganization plans submitted to the Eighty-first Congress, second session, as follows:

Senate Resolution 253—Reorganization Plan No. 7 (Interstate Commerce Commission).

Senate Resolution 254—Reorganization Plan No. 8 (Federal Trade Commission).

Senate Resolution 255—Reorganization Plan No. 9 (Federal Power Commission).

Senate Resolution 256—Reorganization Plan No. 11 (Federal Communications Commission).

The testimony of 21 witnesses was heard. Three witnesses, Frederick J. Lawton, Director, Bureau of the Budget; James H. Rowe, former member of the Hoover Commission; and Harold Leventhal, representing the Citizens Committee for the Hoover Report, testified in favor of all four plans. Three witnesses, Senator Edwin C. Johnson of Colorado, who introduced the resolutions of disapproval on the plans; Senator Ernest W. McFarland, of Arizona; and C. A. Miller, vice president and general counsel, American Short Line Railroad Association, testified in opposition to all four plans.

Chairman Wayne Coy and Commissioner E. M. Webster of the Federal Communications Commission testified in behalf of Reorganization Plan No. 11; whereas Commissioner Rosel H. Hyde submitted a statement to the committee in opposition to it. Commissioner Sterling stated in a letter to the committee that FCC appeared to

be operating satisfactorily under provisions of its Administrative Order 8 which transfers administrative responsibility to the Chairman. Frank Roberson, chairman of the legislative committee of the Federal Communications Commission Bar Association, and Don Petty of Los Angeles, general counsel, National Association of Broadcasters, presented testimony in opposition to the plan.

THE COMMITTEE'S FINDINGS

The intent of Reorganization Plan No. 11 of 1950 is to transfer administrative responsibility for the operation of the Federal Communications Commission from the Commissioners to the Chairman.

The single objective of plan No. 11 is to improve the organization, the administration, and the operation of the Federal Communications Commission by providing clear-cut channels of authority, by strengthening management, and by eliminating confusion identified with "multiheaded" direction. It should be noted with all the emphasis that can be brought to bear that this reorganization plan in no way alters, modifies, or diminishes the substantive quasi-judicial or quasi-legislative functions of the Federal Communications Commission which are vested by statute in the Chairman and the Commissioners or the Commission as a whole. Beyond successful refutation, plan 11 retains those substantive functions in the Commission as provided by law.

Nothing could be clearer than the statement of the President in his message transmitting plans No. 7 through 13, dealing with regulatory agencies, to the Congress. It follows in part:

> In regard to the regulatory agencies, the plans distinguish between two groups of functions necessary to the conduct of these agencies. One group includes the substantive aspects of regulation—that is, the determination of policies, the formulation and issuance of rules, and the adjudication of cases. All these functions are left in the board or commission as a whole. The other group of functions comprises the day-to-day direction and internal administration of the complex staff organizations which the commissions require. These responsibilities are transferred to the chairman of the agencies, to be discharged in accordance with policies which the commissions may establish. The chairman is to be designated in each agency by the President from among the commission members.

It is equally clear that the Commission on Organization of the Executive Branch of the Government was firmly convinced that the consummation of its recommendations, upon which plan No. 11 is based, would have no effect whatsoever upon the quasi-judicial or the quasi-legislative functions of any regulatory agency. In referring to its important recommendation that all administrative responsibility be vested in the commission chairman, the Commission on Organization stated:

> This recommendation does not derogate from the statutory responsibilities placed upon the other members of the commission. They remain exactly as they are, and because of the better functioning of the organization the commission members will be enabled to discharge these responsibilities much more effectively.

Plan No. 11 accomplishes the Commission on Organization's objective of centering administrative responsibility for day-to-day operations of the Federal Communications Commission in its Chairman by (1) transferring (subject to the limitations hereafter defined) of all executive functions to the Commission Chairman, and (2) authorizing the Chairman to delegate these functions to officials, employees, and staff units of the Commission.

Such action is squarely in accord with recommendations of the Hoover Commission, not only in its first report on General Management of the Executive Branch (recommendation 14, "Heads of departments must have full responsibility for conduct of their departments"; recommendation 18, "Each department head should receive from Congress administrative authority to organize his department"; recommendation 20, "The department head should be given authority to determine the organization within his department"); but more specifically in its report on Regulatory Commissions (recommendation 1, "We recommend that all administrative responsibility be vested in the Chairman of the Commission," and recommendation 6, "That the statutes be amended to permit commissions to delegate routine * * * work to members of (their) staffs").

In reaching its conclusions upon which the above recommendations were based the Commission on Organization found that—

> administration by a plural executive is universally regarded as inefficient * * *. Indeed, those cases where administration has been distinctly superior are cases where the administrative as distinguished from the regulatory duties have been vested in the chairman (Report on Regulatory Commissions, p. 5).

Elsewhere the Commission on Organization observed:

> Purely executive duties—those that can be performed far better by a single administrative official—have been imposed upon these commissions with the result that these duties have sometimes been performed badly. The necessity for performing them has interfered with the performance of the strictly regulatory functions (Report on Regulatory Commissions, p. 3) * * *.
>
> Administrative direction has not developed within the commission. Their chairmen are too frequently merely presiding officers at commission meetings. No one has been responsible for planning and guiding the general program of commission activity (Report on Regulatory Commissions, p. 4).

The Commission on Organization emphasized throughout its discussions of the regulatory commissions that the administrative burden has become so great upon individual commissioners that they are often forced to neglect their more vitally important substantive quasi-judicial functions. Plan No. 11 would correct this intolerable situation.

Section 1 of plan No. 11, which transfers the administrative functions to the Federal Communications Commission Chairman relative to, (1) the appointment and supervision of personnel, (2) the distribution of Commission business, and (3) the use and expenditure of funds, is rigidly limited. The Chairman would be governed by the general policies, regulatory decisions, and determinations of the Commission. The appointment by the Chairman of the heads of the major administrative units would be subject to full Commission approval. Full-time personnel regularly employed in the immediate offices of the individual Commissioners would not be affected by the plan. And finally, the functions relating to revising budget estimates and to determining the distribution of appropriated funds to major programs would be reserved specifically to the Commission and not vested in the Chairman. In the view of such restrictions it is difficult to see how the Chairman could misuse the new administrative powers vested in him even if he were inclined to do so.

Much unfounded concern has been expressed that plan No. 11 would "vitiate" the Administrative Procedure Act of 1946 with relation to the independent responsibilities of hearing examiners. In the

judgment of the majority of the Committee on Expenditures in the Executive Departments this allegation is entirely without merit.

As stated previously, the plan affects administrative matters only. In no way do its provisions affect substantive functions nor quasi-judicial procedure. The provisions of the Administrative Procedure Act relating to the separation of responsibilities of the Government's quasi-judicial bodies fully apply. That act contains specific protections as follows:

1. It provides for an internal separation of these two responsibilities so that the same individual cannot exercise both functions (sec 5c).

2. It provides that no one who has participated in the prosecution of a case shall participate in or even advise in the decision of the regulatory commission or the hearing examiner (sec. 5c).

3. It provides that the hearing examiners, and the commissions when hearing cases on appeal, must make the decision in each case solely from the evidence, briefs, and oral arguments submitted on the record in connection with the quasi-judicial proceeding (sec. 7d).

Even a casual study of the provisions of plan No. 11 reveals that the administrative functions transferred in no way relate to the separation of responsibilities provided for by the Administrative Procedure Act. Any view to the contrary is difficult to successfully support.

It was contended at the hearings that the plan would vest in the Chairman the right to hire and fire hearing examiners without recourse to the Commission, and that he might influence decisions on cases which met his approval by assignments to examiners who were inclined to the same views. The facts do not bear out these contentions inasmuch as hearing examiners cannot be appointed by the Chairman alone without Commission approval, and adequate protections are contained in the Administrative Procedure Act relative to assignment of cases on a rotation basis, which the Chairman could not ignore. The fact that hearing examiners were not specifically exempted in plans Nos. 7 to 13, as they were in plans Nos. 1 to 6, is due to the provision in the Administrative Procedure Act which adequately covers the appointment and supervision of such hearing examiners.

The majority report on Reorganization Plan No. 7 contends that the power of appointment and supervision of hearing examiners might be vested in the Chairmen, and indicates that they would be in a position under the authority granted in Reorganization Plans Nos. 7 to 13 to exercise arbitrary control over their decisions. With this contention the majority of the committee favoring Reorganization Plan No. 11 is in complete disagreement.

In addition to the above, it is perfectly obvious that plan No. 11 transfers no functions, administrative or otherwise, to the Chairman of the Federal Communications Commission which are not presently vested in the Commission itself. It follows, therefore, that if adoption of the plan violates the Administrative Procedure Act the Federal Communications Commission has operated in violation of the act ever since it was enacted because the administrative functions transferred to the Chairman without exception have been previously vested in the Commission itself.

The most conclusive evidence of the merits of the plan is that the Federal Communications Commission has operated for the past

year under FCC Administrative Order No. 8 which is practically identical with plan No. 11.

Not one of the "inherent dangers" witnesses repeatedly charged would be brought about if administrative responsibility for the Commission's day-to-day operations are transferred permanently to the Chairman under plan No. 11 have come about. In fact, in the judgment of FCC Chairman Wayne Coy, the Commission is operating more efficiently under provisions of Administrative Order No. 8 than previously when administrative responsibility was scattered among the individual Commissioners who as a result were unable to devote the proper attention to their regulatory responsibilities because of the extra administrative burden.

The only real difference is that plan No. 11 would make permanent the administrative responsibility already vested in the FCC Chairman by the Commission's administrative order, an action the FCC Chairman strongly endorses. The "inherent danger" actually is that if plan No. 11 does not make the transfer provided by the administrative order permanent, individual commissions seeking broader administrative powers themselves might at some future time revoke the order.

CONCLUSION

It is the conclusion of the majority of the committee that (1) plan 11 in nowise affects the quasi-judicial functions of FCC; (2) it makes no changes whatsoever in the substantive statutes governing FCC; and (3) it seeks only to establish administrative responsibility for the day-to-day operations of FCC.

The plan reflects the best judgment of the Commission on Organization, the best experience in the administration of regulatory commissions over the years, and offers not only greatly improved efficiency but long-range economy. Viewed objectively it marks a tremendous stride toward better government at lower cost.

For these reasons the Senate Committee on Expenditures in the Executive Departments recommends Senate Resolution 256, disapproving Reorganization Plan No. 11 of 1950, be rejected by the Senate.

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Calendar No. 1573

81ST CONGRESS
2D SESSION

S. RES. 256

[Report No. 1564]

IN THE SENATE OF THE UNITED STATES

APRIL 12 (legislative day, MARCH 29), 1950

Mr. JOHNSON of Colorado submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950

Reported adversely by Mr. O'CONOR

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 11 transmitted to Congress by the President on March 13, 1950.

Calendar No. 1573

81ST CONGRESS
2D SESSION

S. RES. 256

[Report No. 1564]

RESOLUTION

Disapproving Reorganization Plan Numbered 11 of 1950.

By Mr. JOHNSON of Colorado

APRIL 12 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950
Reported adversely

the Commission would be helpless if it did not perform its duties in accordance with the wishes of the President.

Mr. President, this plan should be overwhelmingly defeated. I hope it will be.

Mr. HUMPHREY. Mr. President, I desire to make a brief comment. If the position of the Senator from Arkansas is to be followed, then I suggest that Reorganization Plan No. 6, which was adopted last year, be repealed, because that plan, which pertained to the Maritime Commission, is identical with the reorganization plan which is now before the Senate pertaining to the Interstate Commerce Commission.

Furthermore, I suggest that the observations in the general recommendations on regulatory commissions made by the Hoover Commission fall within the objectives and purposes of Reorganization Plan No. 7. In fact, Reorganization Plan No. 7 is in strict accordance with the recommendations of the Hoover Commission and its task force on regulatory agencies. The Senator from Minnesota pointed out that fact, and it was pointed out and well documented by the majority leader. The majority leader pointed out the recommendations of the Citizens' Committee report, as well as the recommendations of the head of the Hoover Commission, the former President of the United States, Mr. Herbert Hoover.

I hope the Senate will approve this plan. It is perfectly obvious that every time a reorganization plan comes here it will be met with a frontal assault, with testimony on the part of interested parties. It is perfectly understandable that interested parties would like to leave things as they are.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. LUCAS. In addition to what the Senator from Minnesota has said, the able Senator from Connecticut [Mr. BENTON] pointed out this afternoon, when there were only three Senators on the floor, that the Congress of the United States on six different occasions has passed laws delegating to the chairmen of various commissions the same kind of power which is asked for in this reorganization plan. In other words, Congress cannot consistently take the position of the proponents of the resolution in view of the laws it has enacted. As the Senator from Connecticut has pointed out, on six different occasions Congress has given chairmen of boards the power which the President seeks in this Reorganization Plan No. 7.

Mr. JOHNSON of Colorado and other Senators rose.

Mr. HUMPHREY. My time has about expired, and I wish to conclude my argument. The general policy of the chairman is established by the vote of the regulatory commission. The powers of delegation are made by the members of the regulatory commission. Under the reorganization plans, the chairman of a commission has only those powers which are inherent in the law and which have been delegated by the members of the commission. I hope the Senate will approve the plan and reject the resolution.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Hill	Malone
Benton	Hoey	Martin
Brewster	Holland	Maybank
Bricker	Humphrey	Mundt
Bridges	Hunt	Myers
Butler	Ives	Neely
Byrd	Jenner	Robertson
Cain	Johnson, Colo.	Russell
Capehart	Johnson, Tex.	Saltonstall
Chapman	Johnston, S. C.	Schoeppel
Connally	Kefauver	Smith, Maine
Cordon	Kem	Smith, N. J.
Darby	Kerr	Sparkman
Donnell	Kilgore	Stennis
Douglas	Knowland	Taylor
Dworshak	Langer	Thomas, Okla.
Eastland	Leahy	Thomas, Utah
Ecton	Lehman	Thye
Ellender	Lodge	Tydings
Ferguson	Long	Watkins
Fulbright	Lucas	Wherry
George	McCarran	Wiley
Gillette	McCarthy	Williams
Green	McClellan	Withers
Gurney	McFarland	Young
Hayden	McKellar	
Hendrickson	McMahon	

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to Senate Resolution 253.

Mr. JOHNSON of Colorado. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOUGLAS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOUGLAS. Will not the Chair state the precise question before the Senate?

The PRESIDING OFFICER. The question is on agreeing to Senate Resolution 253. Those in favor will vote "yea" when their names are called and those opposed will vote "nay."

Mr. DOUGLAS. Those in favor of Reorganization Plan No. 7 should vote "nay" and those who are opposed to Reorganization Plan No. 7 should vote "yea"?

The PRESIDING OFFICER. The resolution provides that the Senate does not favor Reorganization Plan No. 7. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MYERS. I announce that the Senator from New Mexico [Mr. ANDERSON] is absent by leave of the Senate.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from Maryland [Mr. O'CONOR], and the Senator from Florida [Mr. PEPPER] are absent on public business.

The Senator from California [Mr. DOWNEY], and the Senator from Iowa [Mr. GILLETTE] are absent because of illness.

The Senator from Delaware [Mr. FREAR], and the Senator from Washington [Mr. MAGNUSON] are absent by leave of the Senate on official business.

The Senator from Montana [Mr. MURRAY] is absent because of a death in his family.

The Senator from Wyoming [Mr. O'MAHONEY] is detained on official business.

The Senator from New Mexico [Mr. CHAVEZ] is paired on this vote with the Senator from Maryland [Mr. O'CONOR]. If present and voting, the Senator from New Mexico would vote "yea," and the Senator from Maryland would vote "nay."

Mr. SALTONSTALL. I announce that the Senator from Vermont [Mr. FLANDERS], the Senator from Iowa [Mr. HICKENLOOPER], the Senator from Colorado [Mr. MILLIKIN], the Senator from Oregon [Mr. MORSE], and the Senator from Michigan [Mr. VANDENBERG] are absent by leave of the Senate. If present and voting the Senator from Iowa [Mr. HICKENLOOPER], the Senator from Colorado [Mr. MILLIKIN], and the Senator from Oregon [Mr. MORSE], would each vote "yea."

The Senator from Ohio [Mr. TAFT] and the Senator from New Hampshire [Mr. TOBEY] are detained on official business.

The yeas and nays resulted—yeas 66, nays 13, as follows:

YEAS—66

Aiken	Hendrickson	Martin
Brewster	Hill	Maybank
Bricker	Hoey	Mundt
Bridges	Holland	Myers
Butler	Hunt	Neely
Byrd	Ives	Robertson
Cain	Jenner	Russell
Capehart	Johnson, Colo.	Saltonstall
Chapman	Johnson, Tex.	Schoeppel
Connally	Johnston, S. C.	Smith, Maine
Cordon	Kem	Smith, N. J.
Darby	Kerr	Stennis
Donnell	Kilgore	Taylor
Dworshak	Langer	Thomas, Okla.
Eastland	Lodge	Thomas, Utah
Ecton	Long	Thye
Ellender	McCarran	Tydings
Ferguson	McCarthy	Watkins
Fulbright	McClellan	Wherry
George	McFarland	Wiley
Gurney	McKellar	Withers
Hayden	Malone	Young

NAYS—13

Benton	Kefauver	McMahon
Douglas	Knowland	Sparkman
Gillette	Leahy	Williams
Green	Lehman	
Humphrey	Lucas	

NOT VOTING—17

Anderson	Hickenlooper	O'Mahoney
Chavez	Magnuson	Pepper
Downey	Millikin	Taft
Flanders	Morse	Tobey
Frear	Murray	Vandenberg
Graham	O'Conor	

The PRESIDING OFFICER. On this vote the yeas are 66, the nays 13. A majority of the authorized Members of the Senate having voted in the affirmative, the resolution (S. Res. 253) is agreed to.

REORGANIZATION PLANS

Mr. JOHNSON of Colorado obtained the floor.

Mr. McCLELLAN. Mr. President, will the Senator from Colorado yield to me?

Mr. JOHNSON of Colorado. I yield.

Mr. McCLELLAN. I wish to make an announcement for the information of the Senate. Twenty-one reorganization plans were originally sent to the Congress, some 2 months ago, on which the deadline will be Tuesday night, and I wish to announce that the Committee on Expenditures in the Executive Departments, to which they were referred,

has taken action on all 21, with the following results:

The committee has reported favorably 10 of the plans against which no resolution of disapproval was submitted. Of the 11 plans against which resolutions of disapproval have been submitted, the committee reported four of the resolutions favorably, three unfavorably, and four have been reported without recommendation.

I may say that one reason for reporting three of the last four without recommendation was the fact that the committee does not have time to make reports on them. We concluded the hearings, but the hearings have not yet been printed, and we simply did not have time to give the resolutions the further deliberation we felt they should have.

I call this to the attention of the Senate, and will have the hearings printed as quickly as possible, so that each Senator may have an opportunity to study the record and make up his mind with respect to the merits of the various resolutions.

REORGANIZATION PLAN NO. 11

Mr. JOHNSON of Colorado. Mr. President, in a moment I shall move to proceed to the consideration of Senate Resolution 256 with respect to Reorganization Plan. No. 11. If that motion is agreed to I shall ask unanimous consent that 15 minutes be allotted to each side, and that a vote be taken at the end of the 30-minute period.

Mr. President, I now move that the Senate proceed to the consideration of Senate Resolution 256 relating to Reorganization Plan No. 11 of 1950.

The PRESIDING OFFICER. (Mr. CHAPMAN in the chair). The resolution will be read.

The Chief Clerk read the resolution (S. Res. 256), as follows:

Resolved, That the Senate does not favor the Reorganization Plan No. 11 transmitted to Congress by the President on March 13, 1950.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Colorado [Mr. JOHNSON].

The motion was agreed to; and the Senate proceeded to consider the resolution.

Mr. JOHNSON of Colorado. Mr. President, I move to limit debate to 15 minutes to each side, making a total of 30 minutes for both sides.

Mr. LUCAS. Mr. President, reserving the right to object, I understand that the Senator has made a motion?

Mr. JOHNSON of Colorado. I have put it in the form of a motion, yes.

Mr. LUCAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LUCAS. Is that motion debatable?

The PRESIDING OFFICER. The motion is not debatable under the rules.

Mr. LUCAS. Mr. President, I ask unanimous consent to speak for 1 minute.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Illinois? The Chair hears none, and the Senator from Illinois may proceed.

Mr. LUCAS. Mr. President, under the rule 10 hours is provided for debate. It seems to me that 15 minutes to each side is not a sufficient amount of time.

Mr. JOHNSON of Colorado. I may say to the Senator that the various plans reported from the committee are all of one kind. The Senator himself made a statement to that effect a few moments ago. We have discussed plan No. 7 quite thoroughly. It would seem that we could proceed with the plan now before the Senate without repeating all the debate that was had previously on plan No. 7.

Mr. LUCAS. It seems to me that 15 minutes on each side on a reorganization plan so important as this one is not sufficient.

Mr. JOHNSON of Colorado. How much time does the Senator suggest?

Mr. LUCAS. I am not a member of the committee. I do not know whether any other member of the committee wants to discuss the plan.

Mr. JOHNSON of Colorado. I will say to the majority leader that I do not know of any speeches that are proposed to be made on this matter.

Mr. LUCAS. I do not know whether or not there will be any speeches made on it.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield.

Mr. McCLELLAN. As chairman of the Committee on Expenditures in the Executive Departments, I do not know what Senators desire to speak on this particular resolution. So far as I am concerned I have no objection to a limitation of 30 minutes. However, a limitation of an hour can be fixed if Senators desire, or some other period of time.

It is a matter of accommodating the whole membership of the Senate. So far as I am concerned I am perfectly willing that every Senator may have as much time as he wants to discuss the plan. It is a matter of accommodating ourselves, that is all I see in it. If any Senator believes he will require more time I have no objection to granting him whatever time he believes he requires.

Mr. LUCAS. May I ask the Senator from Colorado, When was the resolution of disapproval reported to the Senate?

Mr. JOHNSON of Colorado. It was voted on in the committee a week ago, but the report was placed on the calendar yesterday. However, there is a deadline which must be met, which is the 23d of May. We will have to press as hard as we can to get these plans out of the way. We must press as hard as we can if we are to have an opportunity to vote on each one of them.

Mr. LUCAS. Mr. President, so far as I am concerned I shall make no objection, because I am not a member of the committee. It seems to me that 30 minutes is not sufficient time, however, on a plan of this kind.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield to the Senator from Minnesota.

Mr. WHERRY. Mr. President, is the motion debatable?

The PRESIDING OFFICER. It is not.

Mr. WHERRY. I ask for the regular order.

The PRESIDING OFFICER. The question is on the motion of the Senator from Colorado [Mr. JOHNSON].

The motion was agreed to.

Mr. JOHNSON of Colorado. I yield the Senator from Arizona [Mr. MCFARLAND] 10 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 10 minutes.

Mr. McFARLAND. Mr. President, it is with regret that I find myself in disagreement with the recommendations of the President of the United States upon this plan. However, it is my opinion that there is involved here a fundamental principle of government, a principle which Congress must decide for itself, because this plan, as the preceding plan which has just been discussed at length and voted down, involves one of the arms of Congress, a commission which exercises quasi-legislative and quasi-judicial functions. I personally feel that it is important that Congress preserve the independence of that commission, the independence of which was established in the act creating that commission some years ago.

Mr. President, there was quoted this afternoon, with approval, the famous Humphrey case. That decision involved questions which are directly pertinent to the issue here and because of the importance to our Government of the principles involved, I wish again to quote from that decision. The case was one in which the President of the United States sought to remove Mr. Humphrey from the Federal Trade Commission, another independent commission. The Supreme Court held that the President did not have the power to remove the Commissioner except for the specific causes set forth in the act by the Congress. In rendering that decision, the Supreme Court used this language:

Such a body (FTC) cannot in any proper sense be characterized as an arm or an eye of the Executive. Its duties are performed without Executive leave and, in the contemplation of the statute, must be free from Executive control.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. McFARLAND. I yield.

Mr. CONNALLY. Is it not true though that the Humphrey case was based upon the idea that in the statute creating the office provision was made as to the manner in which commissioners could be removed, and that therefore any removal had to follow what was prescribed in the statute; but that without those instructions the President had the absolute right, as held in the Myers case, to remove them?

Mr. McFARLAND. That may be true, but the point I am trying to make here is the law which the Supreme Court has laid down, the principles enunciated by the Supreme Court in making its holding. I submit that they are applicable to the plan we have under consideration.

Mr. President, I have only a few minutes and I do not want to yield further

until I conclude my statement. I continue to quote from the Humphrey case:

The authority of Congress, in creating quasi-legislative or quasi-judicial agencies, to require them to act in discharge of their duties independently of executive control cannot well be doubted. * * *

The fundamental necessity of maintaining each of the three general departments of government entirely free from the control or coercive influence, direct or indirect, of either of the others, has often been stressed and is hardly open to serious question. So much is implied in the very fact of the separation of the powers of these departments by the Constitution—

That is the Supreme Court of the United States talking, Mr. President—

and in the rule which recognizes their essential coequality. The sound application of a principle that makes one master in his own house precludes him from imposing his control in the house of another who is master there. James Wilson, one of the framers of the Constitution and a former justice of this Court, said that the independence of each department required that its proceedings "should be free from the remotest influence, direct or indirect, of either of the other two powers."

Mr. President, this Nation has survived all these years under its Constitution, which assigns the executive, the legislative, and the judicial powers to three separate branches of our Government. Our Government has functioned marvelously well under that division of powers. I submit that we should not deviate from principles which were laid down in the Constitution, and which have been emphasized and reiterated by the Supreme Court of the United States.

Mr. President, I shall not attempt at this late hour to repeat the arguments which have been made with respect to the Interstate Commerce Commission. However, it has been thoroughly demonstrated that the Hoover Commission did not recommend that the President of the United States be given the power to appoint the chairmen of these commissions. However, it was only the task force which recommended that the chairmen of the commissions be appointed by the President. The Hoover Commission itself recommended only the transfer of certain powers to the chairmen.

Mr. President, there is a distinct difference between transferring certain functions of a commission to a man who owes his appointment as chairman of the commission to the President of the United States, and transferring those functions to a chairman who owes his appointment as chairman to the commission itself.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. McFARLAND. Mr. President, I am sorry that I cannot yield at this time. I have only a few minutes remaining. The Senator from Illinois will have his own time to reply.

The PRESIDING OFFICER. The Senator from Arizona declines to yield.

Mr. McFARLAND. Mr. President, it is very important that we recognize the distinction to which I have just referred, because when the chairman of the commission is appointed by the commission itself, the commission can remove him from the office of chairman if he tries to coerce or influence either the commission members or the members of the staff in a particular instance.

Certainly the staffs of these independent agencies have become more and more important. The commissioners must consult the staff for advice and for expert opinions on the various subjects the commission handles. Are the commissioners going to have to consult staff members who do not owe allegiance to them? Are the commissioners to be placed in a position where they will not be able to function independently because staff work and staff opinions, on which they must rely, are prepared under the direction of the chairman, who, in turn, is wholly within the domination of the executive? These commissioners need experts to advise them and they should have for that purpose experts who are responsible to the commission itself.

What did the Communications Commission itself say about this plan, following the report of the Hoover Commission? The Committee on Expenditures in the Executive Departments asked the opinion of the various commissions about these plans. This is what the Federal Communications Commission said at that time—and what I read now is a statement by the Federal Communications Commission itself, not a statement of one member of the Commission or of its Chairman:

The Commission believes that the existing provisions of sections 4 and 5 of the Communications Act of 1934 provide sufficient flexibility to enable the Commission to delegate to the Chairman necessary authority to expedite Commission administrative activity. Under these provisions the Commission has over a period of years delegated increasing powers to the Chairman with respect to administrative matters. Administrative order No. 8 has recently been adopted setting forth this principle of Chairman initiative in Commission administration.

The Commission further said:

To the extent that any additional legislation may be deemed advisable to expressly designate the Chairman as the chief executive officer of the Commission, the language proposed in section 5 (a) of S. 1973, a bill providing for extensive changes in Commission procedure and organization which was favorably reported by the Senate Committee on Interstate Commerce on July 21, 1949, would appear to meet such requirements.

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

Mr. McFARLAND. Mr. President, will the Senator from Colorado yield further time to me?

Mr. JOHNSON of Colorado. I yield 5 minutes more to the Senator from Arizona.

Mr. McFARLAND. I thank the Senator very much.

Mr. President, I shall not use all of that time, for I wish to save a few minutes for Senators who wish to close the debate.

It is true that the Chairman of the Commission did support this plan, and I assume he had good reason therefor. However, only one other member of the Commission supported him in that respect. Two of the commissioners wrote letters in opposition to the pending plan and I call Senators' attention to those letters which will be found on pages 110 and 111 of the hearings. The remainder of the Commission took no official position publicly. I assume this was because they had previously adopted and sent to us their report in opposition to the Hoover legislative reorganization plan to which I have referred and quoted.

Mr. President, that is the situation which confronts us today. Are we going to take away the independence of these agencies? Are we going to change the fundamental character of these agencies as arms of Congress? Everyone knows that the appointive power is an important power. A staff member will naturally be guided by the wishes of the chairman of a commission and particularly so if the chairman has complete appointive and administrative power, for otherwise that staff member might lose his job.

Whether or not such developments have occurred in the past these commissions should not be put in a position where they can properly be subjected to criticism of that sort. We want to keep them on a high plane, a judicial plane, on the same level as that of our judicial system.

We must keep these commissions independent of the executive power; we must maintain their independence as arms of Congress performing quasi-judicial duties and performing the quasi-legislative duties imposed upon them by the Congress of the United States.

Mr. LUCAS. Mr. President, will the Senator from Colorado yield 4 minutes to me?

Mr. JOHNSON of Colorado. Yes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 4 minutes.

Mr. LUCAS. Mr. President, I wish to call the attention of the Senate to what I consider to be a very important point. The arguments which have been made against plan No. 7 were primarily based upon the fact that the Congress thus would give the President of the United States the power to appoint the Chairman of the Commission involved, which was the Interstate Commerce Commission.

However, Mr. President, Congress has already passed on that question, so far as the Federal Communications Commission is concerned, because Congress has already by law authorized the President to appoint the Chairman of the Federal Communications Commission. I repeat that the Congress of the United States has passed a law authorizing the President—granting to him that power—to appoint the Chairman of the Federal Communications Commission.

Mr. BRICKER. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. BRICKER. As the Senator asked the Senator from Ohio a while ago, the same principle runs through all four of these plans, does it not?

Mr. LUCAS. I understand that. However, the point I am making is that the main argument which was made in regard to the previous reorganization plan was that by it we would be delegating to the President of the United States

the power to appoint the Chairman of the Commission, so that by means of appointing the Chairman of the Commission, the President would have the power to dominate the Chairman.

Mr. BRICKER. The same argument is made in all four cases; is it not?

Mr. LUCAS. That is correct. However, the point I now make is that heretofore, when the Congress established the Federal Communications Commission, Congress did that very thing, namely, Congress delegated to the President of the United States the power to appoint the Chairman of the Federal Communications Commission.

Yet, Mr. President, all this argument is made here this afternoon about the fear of certain persons that that proposal of the plan is unwarranted. Some persons do not believe that this power should be delegated to the President of the United States, thus permitting him to appoint the chairman of the Commission. Some persons oppose the granting to the President of that power, for fear that the chairman of the Commission himself would be subservient only to the President of the United States, not to the Congress and the people of the country.

How that fear happened to develop, I do not know. I suppose that probably at the time when the Federal Communications Commission Act was passed by the Congress, arguments similar to those made in the Senate Chamber this afternoon were made.

Nevertheless, Mr. President, in creating one of the most important Commissions of the Government, Congress established the right on the part of the President of the United States to appoint its chairman.

What does it matter what the Hoover Commission says that Congress should do with respect to this matter? In other words, the argument to the effect that Mr. Hoover did not recommend that the President have such power, passes out of the picture entirely in this particular case, because Mr. Hoover had nothing to do with the action which previously was taken by the Congress. Before Mr. Hoover got around to making his recommendation, Congress had given the President the power to appoint the Chairman of the Federal Communications Commission.

The functions proposed by this plan to be transferred are similar to the functions proposed to be transferred by means of plan No. 7, which we discussed earlier today.

It vests in the chairman what? The appointment and supervision of personnel. I ask any Senator whether the chairman of that commission ought not to have the right to appoint the personnel, and whether he should not be responsible for the supervision of the duties of the personnel of that particular agency?

Secondly, it vests in the chairman power over the distribution of business among personnel or administrative units. Should not the Chairman of the Federal Communications Commission have the power to make a distribution of the business which comes before the Commission? Does he have to take it up with the Commission every time he makes a minor work assignment?

Mr. President, it seems to me that argument is ridiculous and fallacious.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. LUCAS. Mr. President, may I have three more minutes?

Mr. HUMPHREY. I yield three more minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for an additional 3 minutes.

Mr. LUCAS. Third, Mr. President, the expenditure of funds is lodged in the Chairman, subject to the general policies of the statutes enacted by the Congress of the United States. He is responsible to the Congress.

What else? The Chairman shall appoint the heads of major administrative units, with the approval of the Commission.

The Commission approves whatever the Chairman does with respect to the appointment of the major administrative units in the field.

The plan also provides that the regularly employed personnel in the immediate office of the Commissioners, other than the Chairman, are not affected by the proposed reorganization plan, and that the reviewing of the budget estimates and the distribution of appropriated funds shall be reserved to the Commission.

In other words, the vital function dealing with the expenditure of money and the reviewing of budget estimates is still held within the power of the Commission itself.

Mr. President, it is difficult for me to understand why Senators will oppose this particular reorganization plan, in view of the fact that they have already placed in the hands of the President the power to appoint the kind of Chairman he wants, not the kind of Chairman the Commission wants.

That has been the sole argument all afternoon, that we should not delegate this power, and should not give to the President, but should retain in the Congress as the prerogative of Congress the appointment of Chairmen. It has been argued that we should not give the President of the United States, whoever he may be, that kind of unwarranted power, because he may at some time use it in an arbitrary and capricious manner.

Mr. President, this resolution should be defeated, if we believe in reorganization of the Government. If we want to continue to do as we have always done and not reorganize the Government, disappointing the Citizens' Committee, disappointing those people throughout the country who are constantly writing to us to reorganize the Government—in that case, Senators should vote in line with the resolution of disapproval.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. HUMPHREY. Mr. President, it appears that each one of the members of the Committee on Expenditures in the Executive Departments is generally privileged to read the reports, listen to some of the testimony, and decide upon these plans. There devolves upon me the duty of making a comment pertaining to the majority report, a copy of which is on the desk of each Senator. The majority report is an unfavorable report upon the resolution of disapproval, which means, in other words, that the President's plan should be approved, and that the resolution which is now under consideration should be rejected by the Members of the Senate.

I must say that the evidence before the committee was rather overwhelming as to the need of this reorganization plan. Apparently the weight of the Hoover Commission evidence or task force evidence is not too persuasive. However, one of the most important witnesses before the Senate Committee on Expenditures in the Executive Departments was Mr. Harold Leventhal, who served as a consultant to the Hoover Commission and as an executive officer of task force No. 16, which reported on the independent regulatory commissions. Task force No. 16 consisted of Mr. Robert R. Bowie and Mr. Owen D. Young. The substance of the report and the testimony of Mr. Leventhal and others who testified in behalf of the Commission and in behalf of the Citizens' Committee for the Hoover Report has already been stated by the distinguished and able majority leader. I must say it is rather ironical that the Senate Committee on Expenditures in the Executive Departments, on the one hand, should report favorably the President's Reorganization Plan No. 11, and then report unfavorably plan No. 7, because, while I do not expect consistency to be a virtue in political life, believe me, there is plenty of inconsistency in the attitudes exemplified in the case of respective reorganization plans.

Reorganization Plans 7, 8, 9, and 11 are identical in purpose. This is Reorganization Plan No. 11. Reorganization Plans 7, 8, 9, and 11, are identical with Reorganization Plan No. 6. Reorganization Plan No. 6 was accepted by the Congress, and it did for the Maritime Commission exactly what we should have done for the Interstate Commerce Commission a moment ago, but which we did not do. Reorganization Plan No. 11 will do for the Federal Communications Commission what we did for the Maritime Commission in 1949, and what we should have done for the Interstate Commerce Commission 25 minutes ago. If we want to have consistency, I do not know how we are going to attain it unless we declare a stalemate and take no action. The United States Senate has approved one reorganization plan and rejected another one having identical language and purpose, but relative to another commission. In other words, for the Maritime Commission we said "Yes, let us reorganize it." For the Interstate Commerce Commission we say "Let us not reorganize it," under the same kind of plan. The committee now comes forward with the majority report in which I concurred. I refer to the majority report of disapproval of the resolution which, in effect, says, "Let us reorganize

the Federal Communications Commission."

What does this reorganization plan propose to do? The Congress has already given the President power to appoint the members of the Federal Communications Commission, which was described today in the course of the debate on the previous resolution as being a "terrible power," calculated to give our great Executive influence over an agency. But we, the Congress of the United States, provided by statute that the members of the Federal Communications Commission and its Chairman should be appointed by the President and supposedly he is under the direction of the President.

What does this plan do? It merely puts into permanent form an administrative plan which is already in operation in the Federal Communications Commission. As a matter of fact, there is at the present time an Executive order, Federal Communications Commission Administrative Order No. 8, which is practically identical with Reorganization Plan No. 11. This administrative reorganization plan, Administrative Order No. 8, of the Federal Communications Commission, has already been in effect for 1 year and I have not noticed a great deal of dictatorship.

What this plan authorizes is merely that the plan which has been in effect for 1 year on a temporary basis shall become a permanent administrative plan for the organization. It will be noted that we are relieved of the responsibility of designating the Chairman of the Commission, because Congress in its wisdom has already done that through a Presidential selection. I want to repeat that what the Congress did for the Federal Communications Commission by permitting the President to appoint its Chairman, it just now denied the Interstate Commerce Commission.

This reorganization plan then says that an administrative order which has worked successfully for a year shall be incorporated into public law by Reorganization Plan No. 11, and I submit that the majority of the committee concurred in that point of view. The majority of the committee concurred in the reorganization plan of the President. The majority of the committee asked that that reorganization plan be accepted. It asked that the resolution itself which is before the Senate be rejected.

I hope, Mr. President, that some time in the consideration of these reorganization plans we shall make up our minds what we want, because the Hoover Commission's task force and the Commission itself set forth a general pattern for regulatory commissions. The way the score stands now, it is one for reorganization of the Maritime Commission and one against reorganization of the Interstate Commerce Commission. This is the third strike in the ball game of reorganization. It is doubtful what will happen, but I hope the Senate will make a home run, or, at least, a safe hit, on Reorganization Plan No. 11.

The PRESIDING OFFICER. The Senator from Colorado has 3 minutes remaining.

Mr. JOHNSON of Colorado. Mr. President, the junior Senator from Minnesota said that the Chairman of the Federal Communications Commission was appointed by the President and that we have seen no dictatorship in that office. I want to read to him from his own committee report. His own committee asked its staff to get information from all the commissions, and this was the result:

> Of the five agencies from which information was required in the compilation of this memorandum, only the Federal Communications Commission has declined to cooperate.

The only agency which declined to cooperate was the Federal Communications Commission, whose Chairman was appointed by the President of the United States. I read further:

> In view of the necessity for expeditious accumulation of the data asked, the staff made requests by telephone for the several reports required.

Did they fail to report because they did not have time to prepare something? That is not it. Listen to these words:

> We are advised—

This is the committee speaking—

> We are advised by the Federal Communications Commission that the material requested by us had been prepared, but the delivery thereof was countermanded by the Commissioner, understood to be Mr. Wayne Coy, Commission Chairman.

He was appointed by the President; and the Senator from Minnesota said there was no dictatorship. The Commission prepared a report, Congress wanted that report, but Mr. Wayne Coy vetoed the request. I call that dictatorship.

Mr. President, I desire to make an additional point. It is true that the President appoints the Chairman of the Federal Communications Commission, but there are powers under the reorganization plan which have always been exercised by the Commission itself and which are being exercised by the Commission itself at the present time, but which Reorganization Plan No. 11 changes and gives to the Chairman who is appointed by the President. This plan gives all the powers of the Commission to the Chairman, so that he can become, in the operation of the Commission, a complete dictator, just as he indicated he would become when a committee of the Senate asked him for a report on the operation of the Commission. After the report had been prepared, he said, "Nothing doing. Congress shall not get that report."

The VICE PRESIDENT. The question is on agreeing to the resolution of disapproval of Reorganization Plan No. 11. Those Senators who are in favor of disapproval will vote "yea," and those who are in favor of Reorganization Plan No. 11 will vote "nay."

Mr. LONG and other Senators asked for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. MYERS. I announce that the Senator from New Mexico [Mr. ANDERSON] is absent by leave of the Senate.

The Senators from Virginia [Mr. BYRD and Mr. ROBERTSON], the Senator from Iowa [Mr. GILLETTE], the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Oklahoma [Mr. THOMAS], and the Senator from Kentucky [Mr. WITHERS] are detained on official business.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from Maryland [Mr. O'CONOR], and the Senator from Florida [Mr. PEPPER] are absent on public business.

The Senator from California [Mr. DOWNEY], and the Senator from Iowa [Mr. GILLETTE] are absent because of illness.

The Senator from Delaware [Mr. FREAR], and the Senator from Washington [Mr. MAGNUSON] are absent by leave of the Senate on official business.

The Senator from Montana [Mr. MURRAY] is absent because of a death in his family.

The Senator from Virginia [Mr. ROBERTSON] is paired on this vote with the Senator from Washington [Mr. MAGNUSON]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from Washington would vote "nay."

The Senator from Oklahoma [Mr. THOMAS] is paired on this vote with the Senator from Maryland [Mr. O'CONOR]. If present and voting, the Senator from Oklahoma would vote "yea," and the Senator from Maryland would vote "nay."

Mr. WHERRY. I announce that the Senator from Vermont [Mr. FLANDERS], the Senator from Iowa [Mr. HICKENLOOPER], the Senator from Colorado [Mr. MILLIKIN], the Senator from Oregon [Mr. MORSE], and the Senator from Michigan [Mr. VANDENBERG] are absent by leave of the Senate. If present and voting the Senator from Oregon [Mr. MORSE] would vote "nay."

The Senator from Ohio [Mr. TAFT] and the Senator from Delaware [Mr. WILLIAMS] are detained on official business.

The Senator from Massachusetts [Mr. SALTONSTALL] is necessarily absent.

The Senator from Iowa [Mr. HICKENLOOPER] is paired with the Senator from Delaware [Mr. WILLIAMS]. If present and voting, the Senator from Iowa would vote "yea" and the Senator from Delaware would vote "nay."

The Senator from Colorado [Mr. MILLIKIN] is paired with the Senator from Massachusetts [Mr. SALTONSTALL]. If present and voting, the Senator from Colorado would vote "yea," and the Senator from Massachusetts would vote "nay."

The yeas and nays resulted—yeas 50, nays 23, as follows:

YEAS—50

Brewster	Ecton	Johnson, Tex.
Bricker	Ferguson	Johnston, S. C.
Bridges	Fulbright	Kem
Butler	George	Kerr
Cain	Gurney	Long
Capehart	Hayden	McCarran
Chapman	Hendrickson	McCarthy
Connally	Hill	McClellan
Cordon	Hoey	McFarland
Darby	Holland	McKellar
Donnell	Hunt	Malone
Dworshak	Jenner	Martin
Eastland	Johnson, Colo.	Maybank

Mundt	Stennis	Wherry
Russell	Thomas, Utah	Wiley
Schoeppel	Tydings	Young
Smith, Maine	Watkins	

NAYS—23

Aiken	Kilgore	Myers
Benton	Knowland	Neely
Douglas	Langer	Smith, N. J.
Ellender	Leahy	Sparkman
Green	Lehman	Taylor
Humphrey	Lodge	Thye
Ives	Lucas	Tobey
Kefauver	McMahon	

NOT VOTING—23

Anderson	Hickenlooper	Robertson
Byrd	Magnuson	Saltonstall
Chavez	Millikin	Taft
Downey	Morse	Thomas, Okla.
Flanders	Murray	Vandenberg
Frear	O'Conor	Williams
Gillette	O'Mahoney	Withers
Graham	Pepper	

The VICE PRESIDENT. On this vote the yeas are 50, the nays are 23. A majority of the authorized membership of the Senate having voted in the affirmative, the resolution (S. Res. 256) is agreed to.

ORDER OF BUSINESS

Mr. LUCAS. Mr. President, it is 6:05 o'clock. Are there any more reorganization plan resolutions to be presented?

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. LUCAS. Yes.

Mr. WHERRY. I am very serious in asking the distinguished majority leader if there be any objection to a unanimous-consent request to take up the concurrent resolution which the junior Senator from Nebraska submitted yesterday for relief and aid to Winnipeg, Canada.

Mr. LUCAS. Mr. President, I have not had an opportunity to communicate with the State Department or with any other agency of the executive branch of the Government, to ascertain whether they have any interest in it. I have not had any telegram or communication from Canadian people requesting that I have the resolution move forward. So that I think we should wait for another day or two before we consider the resolution.

Mr. WHERRY. Does the Senator object to a unanimous-consent request?

Mr. LUCAS. I would have to object under those circumstances.

Mr. President, I am serious about these reorganization plans. If any other resolutions are to be presented it seems to me we should take them up at this time and dispose of them, because we are trying to move along as fast as possible. If any Senator has ready a resolution of disapproval to any reorganization plan, I think we should take it up now while Senators are on the floor.

Mr. KEM. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. KEM. Mr. President, I ask unanimous consent that I may have the floor when the Senate convenes tomorrow.

The VICE PRESIDENT. Is there objection to the request of the Senator from Missouri?

Mr. CONNALLY. I object. I do not object because it is the Senator from Missouri, but because I do not think it would be proper to grant such a request. The rules prescribe that the Presiding Officer shall recognize Senators. In presiding over the Senate he recognizes Senators who wish to be recognized. In my opinion, to pledge the Senate to do something which it has no authority to do is not proper. I shall have to object to the request.

EXECUTIVE SESSION

Mr. LUCAS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to consider executive business.

The VICE PRESIDENT. If there be no reports of committees, the nominations on the Executive Calendar will be stated.

UNITED STATES ADVISORY COMMISSION ON EDUCATIONAL EXCHANGE

The legislative clerk read the nomination of Harold W. Dodds, of New Jersey, to be a member of the United States Advisory Commission on Educational Exchange.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

Mr. DONNELL. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. DONNELL. Mr. President, my parliamentary inquiry is directed to whether or not there was any suggestion, motion, or observation made to the effect that the President should be notified of the confirmation.

The VICE PRESIDENT. There was no such observation, motion, or suggestion.

Mr. DONNELL. I may say to the Chair that I expect to make objection to such suggestion or motion if it is made.

The legislative clerk read the nomination of Edwin B. Fred, of Wisconsin, to be a member of the United States Advisory Commission on Educational Exchange.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION

The legislative clerk read the nomination of Howland H. Sargeant, of Rhode Island, to be a representative of the United States of America to the fifth session of the United Nations Educational, Scientific, and Cultural Organization.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of George D. Stoddard, of Illinois, to be a representative of the United States of America to the fifth session of the United Nations Educational, Scientific, and Cultural Organization.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Miss Bernice Baxter, of California, to be a representative of the United States of America to the fifth session of the United Nations Educational, Scientific, and Cultural Organization.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Isidor I. Rabi, of New York, to be a representative of the United States of America to the fifth session of the United Nations Educational, Scientific, and Cultural Organization.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of George F. Zook, of Virginia, to be a representative of the United States of America to the United Nations Educations, Scientific, and Cultural Organization.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

ECONOMIC COMMISSION FOR ASIA AND THE FAR EAST

The legislative clerk read the nomination of Edwin F. Stanton, of California, to serve as the representative of the United States of America on the Economic Commission for Asia and the Far East.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

DIPLOMATIC AND FOREIGN SERVICE

The legislative clerk proceeded to read sundry nominations in the diplomatic and foreign service.

Mr. LUCAS. Mr. President, I ask unanimous consent that the nominations in the Diplomatic and Foreign Service be confirmed en bloc.

The VICE PRESIDENT. Without objection, the nominations are confirmed en bloc.

Mr. DONNELL. Mr. President, a further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. DONNELL. I desire to be correct in understanding that no motion was made and no action taken toward directing that the President be notified of the confirmation of the nominations.

The VICE PRESIDENT. If any such motion or suggestion was made, it escaped the attention of the Chair.

LEGISLATIVE SESSION

Mr. LUCAS. I move that the Senate proceed to the consideration of legislative business.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

FEDERAL FAIR EMPLOYMENT PRACTICE ACT

The Senate resumed the consideration of the motion of Mr. LUCAS to proceed to the consideration of the bill (S. 1728) to prohibit discrimination in employment because of race, religion, or national origin.

Mr. LONG. Mr. President, I ask unanimous consent that when the Senate meets at 12 o'clock tomorrow I may have the floor.

Mr. LUCAS. The Senator from Texas just objected to the Senator from Missouri having similar unanimous-consent request granted. In view of the request made a moment ago by the Senator from Missouri and the objection of the Senator from Texas, I shall be constrained to object.

The VICE PRESIDENT. Objection is heard.

Mr. LONG. I withdraw the request.

Mr. President, I desire to speak on the pending question before the Senate, the motion of the Senator from Illinois to

81ST CONGRESS
2D SESSION

S. RES. 256

IN THE SENATE OF THE UNITED STATES

APRIL 12 (legislative day, MARCH 29), 1950

Mr. JOHNSON of Colorado submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950

Reported adversely by Mr. O'CONOR

MAY 17 (legislative day, MARCH 29), 1950

Considered and agreed to

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 11 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 256

RESOLUTION

Disapproving Reorganization Plan Numbered 11 of 1950.

By Mr. JOHNSON of Colorado

APRIL 12 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 16 (legislative day, MARCH 29), 1950
Reported adversely

MAY 17 (legislative day, MARCH 29), 1950
Considered and agreed to

81st Congress, 2d Session | HOUSE OF REPRESENTATIVES | Document No. 516

REORGANIZATION PLAN NO. 12 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 12 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE NATIONAL LABOR RELATIONS BOARD

MARCH 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 12 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the National Labor Relations Board. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 12 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

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Reorganization Plan No. 12 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

NATIONAL LABOR RELATIONS BOARD

Section 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the National Labor Relations Board, hereinafter referred to as the Board, and from the General Counsel of the Board, to the Chairman of the Board, hereinafter referred to as the Chairman, the executive and administrative functions of the Board and of the General Counsel, including their functions with respect to (1) the appointment and supervision of personnel, (2) the distribution of business among personnel and among administrative units, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Board shall be subject to the approval of the Board.

(3) Personnel employed regularly and full time in the immediate offices of members of the Board other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Board its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

Sec. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

Sec. 3. *Transfer of functions to Board.*—All functions of the General Counsel of the Board not transferred by the provisions of section 1 of this reorganization plan are hereby transferred to the Board. The office of such General Counsel (provided for in section 3 (d) of the National Labor Relations Act, as amended, 29 U. S. C. 153 (d)) is hereby abolished.

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81ST CONGRESS
2D SESSION

H. RES. 516

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1950

Mr. HOFFMAN of Michigan submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 12 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

H. RES. 516

RESOLUTION

Rejecting Reorganization Plan Numbered 12 of 1950.

By Mr. HOFFMAN of Michigan

MARCH 20, 1950
Referred to the Committee on Expenditures in the Executive Departments

81st Congress } HOUSE OF REPRESENTATIVES { Report
2d Session } { No. 1852

REORGANIZATION PLAN NO. 12 OF 1950

March 28, 1950.—Ordered to be printed

Mr. Dawson, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany H. Res. 516]

The Committee on Expenditures in the Executive Departments, to which was referred the resolution (516) companion resolution to House Resolution 512, rejecting Reorganization Plan No. 12 of 1950, having considered the same, report unfavorably thereon without amendment and recommend that the resolution do not pass.

General Statement

The purpose of House Resolution 516 is to express disapproval of Reorganization Plan No. 12 of 1950, transmitted to the Congress by the President on the 13th day of March 1950, and the effect of the adoption of this resolution by the Congress will be to prevent such plan from coming into force and effect on May 12, 1950, mindful, however, that under section 6 (b) (2) of the Reorganization Act of 1949 (Public Law 109, 81st Cong.), that from the 60-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain.

The scope and the effect of the reorganization plan, in the absence of a disapproval by a House resolution, are set forth in the plan in the following words and figures:

Section 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the National Labor Relations Board, hereinafter referred to as the Board, and from the General Counsel of the Board, to the Chairman of the Board, hereinafter referred to as the Chairman, the executive and administrative functions of the Board and of the General Counsel, including their functions with respect to (1) the appointment and supervision of personnel, (2) the distribution of business among personnel and among administrative units, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Board and by such

regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Board shall be subject to the approval of the Board.

(3) Personnel employed regularly and full time in the immediate offices of members of the Board other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Board its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

SEC. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

SEC. 3. *Transfer of functions to Board.*—All functions of the General Counsel of the Board not transferred by the provisions of section 1 of this reorganization plan are hereby transferred to the Board. The office of such General Counsel (provided for in section 3 (d) of the National Labor Relations Act, as amended, 29 U. S. C. 153 (d)) is hereby abolished.

REORGANIZATION PLAN NO. 12 OF 1950—REORGANIZATION OF THE NATIONAL LABOR RELATIONS BOARD

SECTION BY SECTION ANALYSIS

Section 1.—This reorganization plan, in general, transfers:

(a) the executive and administrative functions of the Board, and those of the General Counsel of the Board, to the Chairman of the Board. This transfer will include—

(1) appointment and supervision of personnel;

(2) distribution of business among personnel and among administrative units; and

(3) the use and expenditure of funds.

(b) (1), (2), (3), and (4) as recited in this reorganization plan are restrictions on the powers vested in the Chairman:

(1) General provision is made that the Chairman shall carry out his functions consistent with the general policies and decisions of the Board, etc.

(2) This makes appointments of the heads of major administrative units by the Chairman subject to the approval of the Board.

(3) No full time and regularly employed personnel in the immediate offices of members of the Board other than the Chairman are affected by the provisions of this reorganization plan.

(4) Reserved to the Board are its functions on revision of budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

Section 2 (delegative powers).—This provides for the performance of transferred functions by other officers, employees, or administrative units within the NLRB. This delegates performance to subordinates, but the responsibility for performance of transferred functions remains vested in the Chairman of the Board.

Section 3.—This recites that all functions of the General Counsel not vested in the Chairman by virtue of section 1 are hereby transferred to the Board. The office of General Counsel is hereby abolished: Here the person performing the function is abolished; however, the

function itself remains in existence, and vests in the Chairman of th Board.

Addendum

The committee has been in receipt of many telegrams, statements, and letters from numerous individuals and organizations propounding diverse approaches, solutions, and viewpoints on this subject matter. A complete review has been had of this material, and it shall, insofar as practicable and consistent with committee policy and economy, be incorporated in the record of our hearings. The committee has had the splendid advantage of hearing many witnesses who have appeared to declare their positions in favor of or in opposition to Reorganization Plan No. 12. The exhaustive nature of their analyses and the excellent opportunities presented for developments of the various phases involved in this reorganization plan have proved helpful to the deliberations of your committee.

Abundant opportunity was had during the lengthy and probative hearings for complete excursion into the many features of this transfer of functions within the framework of the National Labor Relations Board. The subject matter of this reorganization plan is familiar to the Congress in view of the repeated studies, developments, and labor legislation hearings and recent enactments that have been had in this controversial field of industrial relations. From a study of the written statements filed with the committee, the opportunity for oral examination of witnesses, and from the many colloquies during the hearings on the keystone features of this plan and the many statutes related to it, necessary and fundamental information was elicited which guided your committee in reaching its conclusion to reject House Resolution 516.

Purpose of Reorganization Plan No. 12

The effect of Reorganization Plan No. 12 is, in general, to transfer the executive and administrative functions of the Board and those of the General Counsel of the Board, to the Chairman of the Board. Certain restrictions on the powers thus vested in the Chairman are recited, and provision is made for the abolition of the office of the General Counsel.

This reorganization plan is one of a series dealing with regulatory commissions submitted by the President. In no manner does it involve any expansion or diminution of the basic functions in the substantive provisions of the Labor Management Act of 1947. It has the effect of accomplishing the primary and basic recommendation in the field of regulatory commissions, proposed by the Commission on Organization of the Executive Branch of the Government. The Commission recommended—

* * * that all administrative responsibility be vested in the Chairman * * *

In candor, your committee recognizes that no specific recommendation dealing with the office of the General Counsel was made in the Report on Regulatory Commissions, by the Commission on Organization of the Executive Branch of the Government.

Conscious of the content of its task force report, the Commission on Organization can only be said to have been fully apprised of the difficulties existing in the agency—difficulties which the task force had laid bare, and arising, in the main, from the basic split in responsibility

and authority within the framework of the agency. Despite the existence of an independent General Counsel, and after a study of the NLRB as an entity, the Commission on Organization, in finality, did recommend the vesting of the administrative responsibilities in the Chairman of the Board. This recommendation was made for the improvement of internal organization. It can only be interpreted in the light of a most comprehensive definition for "administrative responsibility," and must be predicated on the knowledge available to the Commission on Organization concerning the confused policy pattern and weakened structure of the agency. When it is recalled that the General Counsel is essentially an administrative officer, and now has supervision of virtually the entire staff, it will be seen that the administrative functions cannot be shifted to the Chairman without disturbing the present status of the General Counsel. Therefore, without an assumed elimination or subordination of the General Counsel, the recommendation made by the Commission on Organization, instead of proving of value, here, would only have the effect of adding to and compounding an already aggravated circumstance.

Clear-cut lines of authority, improvements in spans of attention and control, elimination of confusion in areas of responsibility and authority, together with a strengthening in unity of internal management, all augur well for economy of operation and improved efficiency in service. This is concurred in by the entire present National Labor Relations Board, in their unequivocal, and unanimous endorsement of Reorganization Plan No. 12.

National Labor Relations Board

In the message of transmittal, dated March 13, 1950, the President of the United States declared that Reorganization Plan No. 12 of 1950—

> * * * terminates the present division and confusion of responsibility in the National Labor Relations Board by abolishing the office of the General Counsel of the Board. The Senate last year indicated its approval of this step. The reorganization plan in effect restores unified authority and responsibility in the Board. As in the case of the other plans for regulatory agencies, certain administrative and executive responsibilities are placed in the Chairman. The relationship between the Board and the Chairman is identical with that provided for the other regulatory agencies. This action eliminates a basic defect in the present organization of the National Labor Relations Board and provides an organizational pattern consistent with that established for the other regulatory agencies.

The present National Labor Relations Board was created by the Labor-Management Relations Act of 1947 (Taft-Hartley Act, Public Law 101, 80th Cong.). Operation under it began August 22, 1947.

Its predecessor, the old National Labor Relations Board, was created under the National Labor Relations Act of 1935 (the Wagner Act), and differed from the present agency in structure and functions.

The former NLRB (Wagner Act)

This was a unified organization, with three Board members, but with the General Counsel and staff subordinate to the Board. The Board had statutory authority (*a*) to prevent designated unfair labor practices by employers; (*b*) to determine employee representation for the purpose of collective bargaining.

The present NLRB (Taft-Hartley Act)

This is a two-headed agency. The General Counsel, under statutory authority (*a*) operates independently of the five-man Board; and (*b*) supervises the field staff of the agency.

The present Board, of five members, has statutory authority (*a*) to prevent designated unfair labor practices by employers; (*b*) to determine employee representation for purposes of collective bargaining; and (*c*) to include the prevention of various unfair practices by labor unions.

The Board has the same name; some of its former functions; and many new functions. But, it is essentially a new organization.

CONTRASTING RESPONSIBILITIES AND DUTIES OF THE NATIONAL LABOR RELATIONS BOARD AND THE GENERAL COUNSEL OF THE BOARD, UNDER THE LABOR MANAGEMENT ACT OF 1947 (TAFT-HARTLEY ACT)

Specific unfair practices

The duties of the Board with respect to unfair labor practices under sections 8 (a) (2), (3), and (4) of the act are primarily judicial in character. Here the Board is largely occupied in applying statutory standards to specific factual situations.

The General Counsel's role in this category is somewhat similar to that of a prosecutor; when a complaint is filed, he must prosecute if he considers the alleged action a violation of the law.

Duty to bargain

In sections 8 (a) (5) and 8 (b) (3), the Board exercises more of a regulatory power, since it seeks to enforce the duty of employers and labor unions to bargain collectively under certain conditions.

Here, the General Counsel has a different role. The statute vests in the General Counsel final discretion as to the issuance of the necessary complaints. If he refuses to issue a complaint on the ground that the employer or trade union is within its legal rights in refusing to bargain, the complainant has no appeal to the board or the courts. The General Counsel thus possesses a form of rule-making power. Indeed, his interpretation of the particular section can be well nigh conclusive.

Bargaining agents

The Board's work here involves wide discretion in fixing a standard to be applied in situations where it must be decided whether the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof.

The General Counsel's responsibilities in these representation cases are primarily of an administrative character. The regional offices that process the papers, conduct the elections, etc. are under his exclusive direction and supervision. However, he must carry out the Board's policy in this field.

Initiation fees

Section 8 (b) (5) (Public Law 101, 80th Cong.) enjoins the Board to prohibit the levying of excessive or discriminatory initiation fees where the union shop exists, after taking into account relevant factors; i. e., practices and customs of unions and wages paid employees.

The General Counsel, in this situation, may refuse to press a charge that excessive initiation fees have been levied, which would result in his having made an authoritative interpretation of the statute.

Basis for Reorganization Plan No. 12

THE RECOMMENDATIONS ON REGULATORY COMMISSIONS BY THE COMMISSION ON ORGANIZATION

In support of this reorganization plan, your committee recites the following from the Commission on Organization's Report on Regulatory Commissions:

Recommendation No. 1 (p. 5)

We recommend that all administrative responsibility be vested in the Chairman of the Commission.

In this report it is also stated that—

* * * those cases where administration has been distinctly superior are cases where the administrative as distinguished from the regulatory duties have been vested in the Chairman.

In the matter of delegation of performance of certain duties, the Commission on Organization went on to acknowledge that—

It would be his responsibility to deploy the work force most effectively in order to carry out the program developed by the Commission as a whole. It would similarly be his responsibility to see that business is dispatched in an orderly manner.

Recommendation No. 6 (p. 10)

The Commission therefore recommends that the statutes be amended so as to permit the commissions to delegate routine, preliminary, and less important work to members of the staffs under their supervision.

This is the keystone of section 2 of Reorganization Plan No. 12. Major as well as minor matters engage the attention of the regulatory commissions. The Report on Regulatory Commissions (p. 9) relates that—

Minor matters should be delegated to staff members, but statutory authority often prevents it.

Task Force Report

SUMMARY OF REGULATORY COMMISSIONS BY THE COMMISSION ON ORGANIZATION

In further support of Reorganization Plan No. 12, your committee cites from the Commission on Organization's Task Force Report on Regulatory Commissions (appendix N):

DELEGATION OF ADMINISTRATION TO THE CHAIRMAN (PP. 46–47)

This phase is involved in section 1 of Reorganization Plan No. 12:

In order to prevent the absorption of all the commissioners in administrative details at the expense of the substantive work, the chairman should be specifically designated as the person responsible for administration with the commission.

* * * Duties * * * of the chairman * * * should include—

1. Supervision of the various bureaus and divisions from the administrative point of view, such as their work load, backlog, progress, and programs.

2. Direction of the administrative divisions of the commission—those dealing with the budget, personnel, management analysis, and office and miscellaneous services.

3. Analysis of the administration and procedures of the commission for proposing changes to improve administrative efficiency and to provide more systematic supervision.

* * * * * * *

The task force report (p. 47) brought out the fact that—

On routine supervision and appointments, the chairman should merely report periodically to the commission. But the chairman's primary responsibility for administration should not supplant the ultimate authority of the entire commission on matters which are of major significance to the agency.

In Reorganization Plan No. 12, sections 1 (b) (1), (2), and (4) are in keeping with this declaration.[1]

DELEGATION TO THE STAFF (P. 49)

Underlying section 2 of Reorganization Plan No: 12 are the following considerations:

The task force report (p. 49) urges that—

* * * recognition of the Chairman as administrative head of the commission will facilitate the delegation of administrative duties to the staff under his direction.

The task force exhorted each commission to foster areas—

of further delegations to its staff of authority to handle routine and preliminary matters which should not require the specific attention of the commission as a whole.

And again—

To the extent that requirements of law are considered to compel commission handling of matters which should be delegated, it is recommended that the commissions be expressly authorized by statute to make delegations to members and staff officials to act for the commission on routine, procedural, or other matters where the commission considers it appropriate. Under this explicit authority the commission should be less hesitant to delegate authority with respect to such matters (p. 49).

RELATION OF STRUCTURE TO SUBSTANCE (PP. 136–137)

The task force (p. 136) recognized that—

the work of the Board and the general counsel has been largely exploratory and the structure and methods have not yet hardened into final forms.

It proved nearly impossible to get interested parties to discuss organization or administration separately from substantive questions about the present act. Almost invariably, proposals for improving administration were viewed through the glass of their policy implications and judged accordingly (p. 137). In the long run, stability of administration can be achieved only by reconciling the divergent views of management, labor, and the public as to the appropriate role of Government in industrial relations.

Indeed, the task force concluded:

* * * specific recommendations as to structure would have very limited value at this time, while the substantive issues remain unsettled.

The task force has also stated that—

Our conclusion is that the present position of the General Counsel is an unstable one. Various proposals have been made for integrating the position more securely into the Government structure (p. 140).

[1] Subsection (3) is not involved here since it covers one isolated phase of personnel.

CONCLUSION: TASK FORCE RECOMMENDATIONS

Our staff recommends the creation, by Executive order, of a council of labor under the chairmanship of the Secretary of Labor, and including the General Counsel and other Federal officials concerned with labor problems. The function of the Council would be to coordinate Federal labor policy and to advise the President on appropriate action. This represents a compromise between the present independent status of the General Counsel and his subordination to a department head.

Others have strongly urged that the office should again be placed under the Board. To this the objection is made that the prosecuting functions should be separate from the hearing of complaints. But as has already been indicated, only in part are his present duties genuinely prosecution; some parts are administrative and parts are a species of rule or policy making. It may be that the administrative and policy making functions could be subordinated more clearly to the Board's control while still maintaining an adequate separation of the truly prosecuting activities (pp. 140–141).

The Task Force Report on Regulatory Commissions (p. 141) states the following conclusion:

The Office of General Counsel should not be left independent of both the Board and the executive departments but should be integrated more closely into one or the other according to the functions to be performed.

* * * * * * *

TASK FORCE COMMENTS ON THE OFFICE OF GENERAL COUNSEL

The General Counsel, under Public Law 101, Eightieth Congress—

is a prosecutor, administrator, and a policy maker (Task Force Report on Regulatory Commissions, p. 139).

The General Counsel has remarked that his powers—

are broad and absolute and his authority final to an outstanding degree seldom accorded a single officer in a peacetime agency. [2]

The task force report states that the present NLRB—

marks a departure from previous administrative practice. If permitted to set a pattern for future Government organization, it may lead to a diffusion of responsibility (p. 139).

In view of the wide powers of the office, it is inevitably subject to heavy pressure from all sides * * * (p. 140).

The administrative position of the General Counsel is also unique. The field offices which operate under his supervision are engaged partly in (1) representation work (which is the direct responsibility of the Board); and (2) investigating, issuing, and prosecuting complaints (here the General Counsel has final authority).

The unusual position of the General Counsel has given rise to several internal administrative problems (p. 140).

Example: In unfair labor practice cases, the regional directors issue complaints, with the approval of the General Counsel.

The finality of refusal to issue a complaint has led to demands for an appeal; and it has been further urged that an appeal to the same unit in the counsel's office whose advice was followed in the original refusal is illusory, and that the appeal should be to an independent body. This problem high lights the nature of the authority the General Counsel is exercising (p. 340).

FEASIBILITY OF TRANSFER OF THESE FUNCTIONS

The Labor Management Relations Act of 1947 in its passage was primarily designed as a vehicle for promoting peaceful relations

[2] Remarks of Robert N. Denham before the labor relations section of the American Bar Association, Cleveland, September 23, 1947.

between employers and employees. Through its framework there was sought the safeguarding of the public interest by the elimination of certain defined impediments to substantial harmony between these two groups.

Although a single policy on labor management was sought by this congressional action, the administration of the agency charged with this responsibility was unfortunately divided into two opposing, and contradictory, parts. The internal structure of the agency was shattered by the resultant conflict of jurisdiction, interests, and interpretation which has existed between the Board and the General Counsel almost from the inception of the act. For a better insight into the conflict in authority and the divided responsibility existing within the framework of the agency, it would be well to relate that section 3(d) of the Labor Management Relations Act of 1947 gives the General Counsel final authority in the matters of investigation of charges and the issuance of complaints in unfair labor practice cases. This includes also the prosecution of such complaints before the Board, where a decision is rendered as to the existence of a violation of the law. In unfair labor practice cases the jurisdiction of the Board does not attach until the General Counsel issues the necessary complaint. On the other hand, in representation, or election cases, the authority of the Board attaches at the very outset, even though the statute requires the regional field staff services processing these cases to be under the General Counsel's supervision. Thus, in representation and election cases, the General Counsel acts only as administrative agent of the Board with, however, the field operations placed immediately under his exclusive direction and control. The entire framework of the agency is thus complicated by provisions of the Labor Management Relations Act which, while giving the Board the power of appointment of attorneys, examiners, regional directors, and personnel necessary for the performance of its duties, in turn vests the supervision of these officers and employees in the General Counsel.

By virtue of the Labor Management Relations Act of 1947 Congress caused to be created a two-headed agency with the following results:

(*a*) The cleavage of functions has engendered friction areas within the framework of the entire agency and has encouraged a sharp division in the jurisdictional concepts embraced by the Board on the one hand, and the General Counsel on the other. These confused standards have cast grave doubt among management and labor unions as to the scope and coverage of the Labor Management Relations Act.

(*b*) The foregoing has fostered a policy of uncertainty in agency administration.

(*c*) Conflicting, simultaneous policy has militated against the achievement of the objectives of the basic law. Public policy enforcement in Federal courts has suffered from the confused situation.

(*d*) The present division in authority and responsibility can only continue to forestall effective working out of this labor-management legislation.

(*e*) Effects of a two-headed agency in court appeals: the Board has, by virtue of the statute, the authority to enforce and defend its orders in the courts, but in this regard has been put in a strange position by the General Counsel.

(A) CONFLICTING THEORIES OF JURISDICTION

Under the law, the General Counsel is unhampered in his interpretation of this statute where unfair labor practice circumstances obtain. As a consequence of this, the General Counsel—one man—can stop short any case at its source by refusing to issue a complaint. These negative powers of the General Counsel can, through his inaction, have a very real impact on industrial peace.

The General Counsel is given sole and unappealable discretion as to whether an unfair labor practice violation has occurred, whether or not a complaint should issue, and a violation be prosecuted before the Board. Only when the complaint is thus issued can the case come before the Board for a decision, where the five Board members can determine their view of the case in the light of the law and cause to be issued an appropriate ruling.

Yet, for example, should the Board dismiss a case, the interesting situation has occurred where the General Counsel, because of his independence of the Board, can later issue another complaint in similar circumstances without paying any necessary heed to the previous decisions or statutory interpretations of the Board. Indeed, he may persist in continually bringing before the Board similar cases which, in time past, the Board had dismissed or refused to entertain; the Board is powerless to prevent the General Counsel's recurring action.

In the matter of Federal jurisdiction over small enterprise, we find high-lighted this unfortunate and disturbing division in policy-making authority and responsibility. It is the General Counsel's conception of the act that the National Labor Relations Board should seek to regulate labor relations of any and every enterprise where its activities affect interstate commerce, irrespective of the degree of remoteness. Corner drug stores, grocery and local restaurants are typical examples of local businesses which the General Counsel would seek to regulate should labor difficulties there affect interstate commerce, no matter how remote.

This conclusion as to the stand of the General Counsel is not arrived at by deductions from cases alone, it is disclosed and bolstered by his very frank testimony before several congressional committees.[3]

The Board members have repeatedly resisted the extension of National Labor Relations Board's jurisdiction to these illimitable operations. Their viewpoint is grounded on the tenet that operations of the nature described are substantially local in character, and are not suitable objectives for Federal Government regulation. The Board has declined the role of "beggar on horseback." It is the Board's contention that the Congress sought the application of Federal regulations in the firmer areas of jurisdiction.

It is evident from the size of the Board, and the staff allotted, and the budget considerations adopted by the Congress, that it was not contemplated that the jurisdiction of the agency was to be developed to the untoward degree advanced by the General Counsel.

[3] Hearings before special subcommittee, Committee on Expenditures in the Executive Departments, House of Representatives, May 7, 1948, investigation to ascertain scope of interpretation by General Counsel of National Labor Relations Board of the term "affecting commerce," as used in the Labor Management Relations Act, 1947 (80th Cong., 2d sess.). See also the report of the committee.

(B) UNCERTAINTY IN AGENCY ADMINISTRATION

In representation proceedings, the General Counsel refused at first to accede to the Board's declaration as to the extent of their jurisdiction. Thus, cases which the Board decided to dismiss as being essentially local in nature, or because of a lack of substantial burden on interstate commerce, were not used by the General Counsel as a guide; even as late as September 1949 the General Counsel instructed regional office personnel, under his supervision, to disregard Board precedents in representation cases that involved parallel facts. This action increased the case load of an already crowded docket. Finally, after 18 months of uncertainty for the Board and the public, the General Counsel reluctantly yielded to the Board's concept of jurisdiction in representation cases.

Despite this, in his handling of unfair labor practice cases, where the General Counsel has unappealable discretion in the matter of the issuance of complaints, he has continued tenaciously to cling to his own conflicting standard.

As a consequence of this internecine contesting, complaints issued by the Board in representation cases are based on its more conservative concept of jurisdiction for Federal regulation. On the other hand, complaints issued in unfair labor practice cases by the General Counsel, within the purview of his unappealable discretion under this act, have been grounded on his very liberal interpretation of fields susceptible to Federal regulation.

In view of the opposite interpretations arrived at by the Board and the General Counsel in these areas, it is patent that internal management of the agency is suffering. Especially is this matter glaringly revealed when it is recalled again that field service appointments are made by the Board, but such appointees are subject to the supervision of the General Counsel. Confusion is worse confounded since these field services are called upon in the performance of their duties to apply one jurisdictional standard set by the Board, and another jurisdictional standard set by the General Counsel. The absence of uniformity of approach to a solution of this problem has had its effect in negating the purposes of the entire agency, with a resultant loss in public confidence.

(C) CONFLICTING, SIMULTANEOUS POLICY HAS FORESTALLED ACHIEVEMENT OF THE OBJECTIVES OF THE BASIC LAW

It is within the power of any General Counsel under the present law, to vitiate public policy by the direct refusal to issue a complaint. His refusal to act, whether from reason or caprice, is not subject to review by the Board or the courts. Thus, in unfair labor practice cases there can be no appeal from the General Counsel's decision that a complaint should not be issued. The Board and the courts are never allowed the position where they get to agree or disagree with his action.

The position taken by the General Counsel in unfair labor practice cases has a very direct effect on the functions exercised by the Board in representation cases. A good example of this is where the Board, after exercising its jurisdiction in representation cases, certifies the bargaining representative of employees in an appropriate unit, upon

the petition of employees or their employer. The certificate issued by the Board is granted after a hearing and a secret ballot election; however, it contains no mandate to the employer to bargain collectively with the certified representative. This employer may choose to challenge the Board's certificate by refusing to bargain. As an immediate result, the Board cannot enforce its certificate until, and unless, an unfair practice complaint is issued and prosecuted by the General Counsel. Should he refuse to initiate such a proceeding, the Board's certificate is valueless, and the Board's powers in representation cases are destroyed and the hearings and secret ballot elections have been for naught. Industrial peace can never be fostered by legislation producing such results.

The converse situation can also take place. In such an instance, because the Board does not desire to invade the province of the General Counsel, it would be unable to determine whether certain strikers should vote in an election. If the General Counsel refuses to issue a complaint, on the basis that a certain strike was caused by unfair labor practices, it flows as an inevitable consequence that the Board could not exercise its function and jurisdiction in the representation area to determine whether or not these men were unfair-labor-practice strikers entitled to vote.

From this, it is readily apparent that the functions exercised by the General Counsel and by the Board are interdependent and require the closest coordinated, unilateral, and integrated action, if the purposes for which the statute was enacted by Congress are to be effectuated. The entire agency, all litigants, and the general public have suffered from the separation of these inextricably interwoven functions.

(d) THE PRESENT DIVISION IN AUTHORITY AND RESPONSIBILITY CAN ONLY CONTINUE TO FORESTALL EFFECTIVE WORKING OUT OF THIS LABOR-MANAGEMENT LEGISLATION

The obviously perplexing double standard which we view here can only be translated into unjustified consumption of time, money, and loss of efficiency in operation. Management, labor, and the general public, as a result, are confused in their rights and duties under the law; the division within the agency has promoted the amount and limits of litigation. The termination of this conflict in authority and responsibility would set at rest in large measure the unsettled administrative atmosphere, and help bring about an appreciable diminution in litigation. The present General Counsel himself has admitted that, "if the authority and jurisdiction were not divided between the General Counsel and the Board, the type of conflict which has been brought out here would not, in effect, exist because the Board would render the decision." [4]

(e) EFFECTS OF A TWO-HEADED AGENCY IN COURT APPEALS: THE BOARD HAS, BY VIRTUE OF THE STATUTE, THE AUTHORITY TO ENFORCE AND DEFEND ITS ORDERS IN THE COURTS, BUT IN THIS REGARD HAS BEEN PUT IN A STRANGE POSITION BY THE GENERAL COUNSEL

The Board, by its Statement of Delegation of 1947, gave to the General Counsel the duty of enforcing and defending its orders in

[4] 1949 testimony before Senate Committee on Labor and Public Welfare on S. 249 (81st Cong., 1st sess.), p. 1667.

the courts. This was a logical approach in view of the fact that section 3 (d) of the statute put all attorneys (save those employed as legal assistants to Board members) under the "general supervision" of the General Counsel. It is easy to see that, while the Board was empowered to enforce its orders in the courts, it could not supervise directly any staff lawyer performing that function on its behalf. An interesting situation has come from this. Another area of confusion and conflict has been developed. For instance, in several cases the Board's decision did not sustain the position taken by the General Counsel at the time he issued the complaint. In the appeal to the courts he was placed in the status of having to press for enforcement of an order incompatible with his concept of jurisdiction and his role as a policy maker. The General Counsel indicated that defense of the Board's order by his legal staff was not consistent with his function as a prosecutor. He confessed that this circumstance would also be a matter of embarrassment before the courts. By agreement between the Board and the General Counsel, the latter was relieved from responsibility in defending its orders in two cases. Yet, in one of these cases, where the matter of jurisdiction appertains, the General Counsel has officially notified the Board that he may, at his discretion, desire to incorporate his contrary views in a brief amicus addressed to the circuit court. He would, therefore, be opposing the Board and persisting in his original position when he issued the complaint and would be, in effect, supporting the party attacking the Board's order. Through this two-headed agency the United States Government could be thus placed in the position of being on both sides of the same case before the courts.

In other instances the Board has had to insist that the staff attorneys and personnel under the General Counsel's supervision defend its orders in the courts.

It is safe to assume that, as more orders are handed down by the Board with which the General Counsel does not agree, the confusion revealed in the foregoing situations will be multiplied and the general conflict intensified. The policy of the Congress in passing the basic legislation will not thereby be carried into effect.

The Present Confusion at the Regional Office Level

Since the present act reposes in the Board jurisdiction over representation or election cases, this body is called upon to perform the function of initiating and processing for decision in these cases. Two important factors must be borne in mind; this work must be performed in the area where the employer and employees are situated; then again, it constitutes also the greatest part of the work load of the agency. Thus, it is readily seen that the Board must depend upon the personnel of these regional offices for the proper accomplishment of its function.

On the other hand, the General Counsel, by virtue of the independent authority vested in him under the statute, has the responsibility of investigating charges in unfair labor practice cases filed by unions and employers, and, where appropriate, to issue and process complaints before the Board. In this work he has the assistance of the regional office personnel. The regional office investigates the charges, consults with the General Counsel, and applies his policy as to whether a

complaint should or should not issue; following this, where a complaint does issue they prepare and present the case for hearing.

To fully understand the confusing cross-currents which have arisen at the regional office level, it should be understood that although the Board has the power of appointment of such regional office personnel, under the Labor Management Act of 1947, "general supervision" of this personnel is placed in the office of the General Counsel. From the very beginning of operation under this statute, the Board decided, in the interest of efficiency and economy, and to avoid duplication of field staffs in 28 regional areas, to make joint use of regional personnel. Shortly thereafter, the Board passed over all responsibility for the appointment and discharge of regional office personnel to the General Counsel.

The Board discovered, after an appreciable period, that because of the authority over the personnel which the General Counsel had thus acquired, the regional offices of about 800 employees had come to regard themselves, even in representation cases, as more his agent than theirs—this, though it should be remembered that the regional offices function for both the Board and the General Counsel. Because of the force of these events and the keen interest on the part of the Board in representation cases, the Board members, February 28, 1950, after discussion with the General Counsel, officially modified their Statement of Delegation to provide that "no appointment, transfer, demotion, or discharge of any regional director, or of any officer in charge of a regional office, shall become effective except on approval of the Board." The effect of this revision of delegation is merely to allow the Board confirming power over the General Counsel's action. In a public statement issued March 3, 1950, the Office of the General Counsel has indicated that it would refuse "to submit to such action." In this fashion it was further alleged that the revision of the delegation was an act in which the Board had exceeded its authority. This latter statement is based on a misconception, since the statute vests the power of appointment of personnel of the Board in the General Counsel; further, that these regional offices handle representation cases solely on behalf of the Board.

From the foregoing narrative some appreciation can be gleaned of the difficulties encountered at the regional level under this act. The framework of the statute has created the regional office as a common instrument for joint use. When it is considered that this two-headed agency is proceeding under parallel, but opposing, policies the confusion in employing a common instrument has, in practice, multiplied the instability and uncertainty in organizational management, until it has pervaded the agency from its top level to the very bottom.

Recent Congressional Action on NLRB Functions

Under the operation of Reorganization Plan No. 12 the internal separation of judicial and prosecuting functions will be assured by the provisions of the Administrative Procedure Act of 1946. The latter act will make answer to those who see the National Labor Relations Board acting as judge and prosecutor. With this safeguard in effect, the necessity for the Office of the General Counsel, with its capacity for a division of authority and responsibility within the agency, passes from the scene.

The Senate Committee on Labor and Public Welfare, in its majority report on the proposed National Labor Relations Act of 1949, declared:

> In the guise of separating the adjudicative and prosecutive functions, the act has transferred vast prosecutive, administrative, and injunctive powers to the General Counsel at the most critical stages of labor disputes. When to this concentration of power is added the internal disruption and the uncertainty and delay which the present system engenders, the conclusion is compelling that this experiment in two-headed administration has proved a costly mistake and should be scrapped (S. Rept. No. 99, p. 41).

The minority report reflecting the views of Senators Taft, Smith, and Donnell, while differing in their version for a labor relations bill, did completely eliminate from consideration section 3 (d) of the Taft-Hartley Act (Public Law No. 101, 80th Cong.), which provides the statutory authority for the Office of the General Counsel (S. Rept. No. 99, pt. II, p. 69).

In this connection, despite any present change of views, Senator Taft on June 29, 1949, in explaining the elimination of section 3 (d) in the amendments to S. 249 had this to say:

> I believe that the amendments which we have suggested are important. Perhaps the most important one is the elimination of the independent General Counsel. The difficulty which arose with the independent General Counsel was that he took a different view of the jurisdiction of the Board than did the Board itself. He would bring a case which he thought was covered by the act. After a year's litigation the Board would rule that it was not covered by the act. In the last analysis the Board determined the result, but in the meantime there was confusion. There was a difference of opinion. There was difficulty in the separation of powers.
>
> Under the Administrative Procedures Act, which was passed since the passage of the original National Labor Relations Act, the judicial and prosecuting functions are largely separated, although not entirely so. The procedure goes back to the Board. However, we felt that on the whole that separation accomplished the purposes we were trying to accomplish in not having the same people bring the prosecution, try the case, and then judge those who they themselves had indicted. That was one of the strong protests made by the labor unions, and we felt that it was sufficiently justified to go back to the Administrative Procedures Act and rely upon that for a fair treatment by the Board (p. 8750, Congressional Record).

H. R. 2032 introduced by Congressman John Lesinski, chairman of the House Education and Labor Committee, sought to reenact the Wagner Act of 1935 and delete the Office of the General Counsel. H. R. 2032 was committed to the Committee of the Whole House on March 2, 1949, and was recommitted to the House Committee on Education and Labor on May 4, 1949.

It is at once discernible, therefore, that the congressional action, which engaged the attention of the two legislative committees charged with responsibilities in these matters, has concurred in the elimination or discontinuance of the Office of the General Counsel. This action was determined upon after a thorough exploration and survey of the legislative scope and day-to-day operational practices under this legislation in the labor-management field.

The Legal Aspects of Reorganization Plan No. 12

Prior to the transmittal of plan No. 12, and its accompanying message, to the Congress, the President sought and received the advice of the Attorney General on the legality of this legislation. It was the expressed opinion of the Attorney General that the plan and the message were legal.

In the Reorganization Act of 1949 (Public Law 109, 81st Cong.) the evolution of reorganization comes about under section 3 which recites—

whenever the President, after investigation, finds that—

(4) the consolidation or coordination of any part of any agency or the functions thereof with any other part of the same agency or the functions thereof; or * * *.

(6) the abolition of the whole or any part of any agency which agency or part does not have, or upon the taking effect of the reorganization plan will not have any functions,

is necessary to accomplish one or more of the purposes of section 2 (a), he shall prepare a reorganization plan * * *.

Reorganization Plan No. 12 transfers functions within the framework of this agency. It does not have the force of modifying, creating, or abolishing any functions of the agency. It merely provides for a rearrangement of the organizational pattern within the structure of the National Labor Relations Board. It transfers functions and the responsibility for their exercise to the Chairman of the Board. Every plan changes basic law in that it modifies existing organizational patterns for responsibilities, powers, or functions prescribed in a statute. By basic law, of course, is meant the fundamental substantive functions set up within the four corners of a statute by the Congress. Unless this is conceded, there could never be any reorganization in the Government.

Although the Office of the General Counsel of the Board is abolished, this action does not involve the abolition of a function. The provision has merely the effect of abolishing the office exercising a function within the agency, but leaving the function so transferred, whole and unimpaired.

Conclusions

Ample testimony, statements on file, and cross-examinations of witnesses during the lengthy hearings on this legislation have enabled your committee to report favorably on Reorganization Plan No. 12. Accordingly, it urges the rejection of House Resolution 516 (companion resolution to H. Res. 512).

In fairness, it is not the intention of your committee to state that any clear-cut recommendation was made by the Commission on Organization of the Executive Branch of the Government concerning the Office of the General Counsel of the NLRB. However, the Task Force on Regulatory Commissions, which reported to the Commission on Organization, was led to the conclusion "that the present position of the general counsel is an unstable one * * *." The report went on to say that the "General Counsel should not be left independent of both the Board and the executive departments but should be integrated more closely into one or the other, according to the functions to be performed."

It is manifest that the Commission on Organization was cognizant of the position taken by its task force; and thus, in recommending that all administrative responsibility be vested in the Chairman of the Commission, it adequately considered the confused status of the Office of the General Counsel. Further, it is very clear, from an evaluation of the report of the Commission and the accompanying task force, that this recommendation would accomplish little in strengthening

internal management and sound organization if only limited administrative responsibilities were transferred to the Chairman. This lack of mention of the Office of the General Counsel, while at the same time, urging the transfer of agency functions to the Board and to the Chairman, militates against any expression for the continuance of this anomalous and independent, and "unstable" arm within the agency. This reorganization plan was developed as one phase of a general pattern of reorganization for all regulatory commissions. Clear lines of authority and responsibility would thereby be reestablished for sound and efficient administration.

In 1941 the Attorney General's Committee on Administrative Procedure made an extensive study of regulatory commissions. This survey evaluated these agencies and determined that the NLRB was properly classified within the field of regulatory commissions. Moreover, in the later studies of the Commission on Organization recently completed, the NLRB was included as a proper regulatory commission. The appraisal of the task force and recommendations made by the Commission on Organization have thereby driven home ever more forcefully the tenet that the NLRB cannot be considered as an agency set apart, in a class by itself. Thus the NLRB is not a unique organization. The need for uniformity in the field of regulatory commissions demands that in the interests of efficiency and economy, a common framework be developed for all.

It has been consistently demonstrated to your committee that the two-headed nature of this agency, with its parallel but dissimilar policy determinations, has led to a disrupted internal agency structure. Moreover, the resultant division of responsibility has led to confusion among the agency personnel, litigants, and the general public.

Reorganization Plan No. 12, unanimously and unqualifiedly endorsed by all of the five Board members, and with its accent on sound organization, will go far toward improvement in these fields. As a matter of emphasis, your committee stresses that the substantive provisions of the Labor Management Relations Act of 1947 remain undisturbed by Reorganization Plan No. 12. In this vein, a few critics have sought to assert that the plan attempts to thwart the will of previous congressional policy. We have only to recall that any Presidential reorganization plan is subject to congressional disapproval to have even these critics waver and abandon that position.

Viewed in its proper perspective, this plan is but one facet of a uniform approach to improved organization and strengthened management for regulatory commissions. Aided by these reorganization plans, it will be found that these regulatory bodies will be enabled to carry out more effectively congressional policy in their respective fields, with assurances for long-range economy and immediate improved efficiency in service.

MINORITY VIEWS

The Congress, after many months of the most careful discussion and deliberation enacted, over the President's veto,[1] the Labor-Management Relations Act of 1947, hereinafter referred to as the Taft-Hartley Act. That act embodied therein as a basic legislative policy, the substantive principle of separating the judicial from the prosecuting functions in the administration of the act.[2]

Reorganization Plan No. 12 of 1950, transmitted to this House by the President on March 13, 1950, would repudiate this sound, fundamental policy and substitute therefor the opposing policy of permitting a Federal agency to act as investigator, prosecutor, judge, jury, and executioner.

Resolution 516 is designed to compel adherence to the policy established by the Taft-Hartley Act.

Unless Reorganization Plan No. 12 is disapproved by Congress, it will return the National Labor Relations Board to an even more unhappy position than it occupied before the procedural reforms contained in title I of the Labor-Management Relations Act, 1947. Despite the vague pretensions of the advocates of this plan, the proposal, except in one minor feature (the concentration of the so-called housekeeping functions to the Chairman) is in no way a part of the recommendations of the Commission on Organization of the Executive Branch of the Government (hereinafter referred to as the Hoover Commission). In fact, although the Labor Board, like other agencies of the Government, came under its scrutiny, this distinguished Commission, at no time ever proposed the retroactive step of again placing in the Labor Board the prosecuting functions which had done so much to destroy public confidence in the judicial integrity of its decisions.

To understand the reactionary and unsound character of the particular plan to which Congress is now asked to give its blessing, a brief summary of the history of the National Labor Relations Act and the demonstrated defects which led Congress in 1947 to institute fundamental changes in its structure seems pertinent.

EXPERIENCE UNDER WAGNER ACT

The National Labor Relations Act was passed in order to lessen and, if possible, to eliminate the causes of labor disputes, particularly those abuses to which workers were frequently subjected by employers. The outstanding example of injustice to which workers were subjected was the "yellow dog" contract, which employees and those seeking employment were required to sign and which provided that no man would be given, or could hold, a job if he belonged to a union.

Under the act employees were guaranteed the rights to form and assist labor organizations, to strike, picket, and boycott without any

[1] The House voted 331 to 83 and the Senate voted 68 to 25.
[2] Sec. 3 (d), title I, 61 Stat. 136.

stated limits. Employers were forbidden in any way to interfere with, restrain or coerce employees who sought to exercise these rights, and were compelled to bargain exclusively with the labor unions chosen by the majority of their employees.

Unfortunately as an instrument for promoting industrial peace, the act in practice disappointed the hopes of its sponsors—because it was a one-way street. All of its prohibitions were directed against employers—employees and unions were subjected to no restrictions, no regulations. Its one-sided character was aggravated by a Board which indulged the assumption that all abuses in labor relations flow from unfair activity of employers.

The Wagner Act, unchanged, was the law for about 12 years (from 1935 to 1947), a period more than sufficient to permit an accurate appraisal of its shortcomings and consequences.

Under the Wagner Act organized labor grew up. Its membership increased from less than 3,000,000 to more than 15,000,000. Giant unions such as the United Mine Workers, the A. F. of L., and the CIO became so politically and economically powerful they controlled the livelihood of employees, dictated to management and defied the Government. The economic life of the country was at their mercy even during the war, a period of gravest peril for our national existence. In several instances the public health, welfare, and safety were endangered.

This growth in the size and power of labor unions, under the completely one-sided Wagner Act, was accompanied by increasing industrial unrest. The early hope which was expressed in the Wagner Act, that the number of strikes would decline was not realized. Strikes became more widespread, and at times even brought the Nation to the edge of general economic paralysis.

	Strikes per year	Workers involved per year
During the 6 years preceding the enactment of the National Industrial Recovery Act of 1933 [1] the United States had an average of	753	297,000
During the next 6 years	2,541	1,181,000
During the next 5 years, that is, through 1944 (that period included 3 of the war years)	3,514	1,508,000

[1] Sec. 7 (a) of this statute was the predecessor of the Wagner Act.

During 1945, approximately 38,000,000 man-days of labor were lost in strikes, and that total was trebled in 1946 with a loss of 116,000,000 man-days,[3] with a new high in strikes of 4,985.[4]

To the incalculable loss to workers, as well as to employers and the public, which resulted from these strikes must be added to ever-growing abuses which rapidly spread through the field of labor relations. But this time the victims were the general public, the employers, some workers, union as well as nonunion, not the unions themselves. The latter in the meantime had sometimes become the oppressor—not only of nonunion workers but also of their own members and on occasion the public.

[3] These figures of man-days lost do not include the time lost as a result of the indirect effect of these strikes.
[4] H. Rept. No. 245, 80th Cong., 1st sess., pp. 3–4.

As the Senate Committee on Labor and Public Welfare pointed out in its report accompanying its bill to amend the Wagner Act:

> The committee bill is predicated upon our belief that a fair and equitable labor policy can best be achieved by equalizing existing laws in a manner which will encourage free collective bragaining. * * *
>
> The need for such legislation is urgent. Supreme Court interpretations of the Norris-LaGuardia Antiinjunction Act and the Clayton Act seem to have placed union activities, no matter how destructive to the rights of the individual workers and employers who are conforming to the National Labor Relations Act, beyond the pale of Federal law. Moreover, the administration of the National Labor Relations Act itself has tended to destroy the equality of bargaining power necessary to maintain industrial peace. This is due in part to the one-sided character of the act itself, which, while affording relief to employees and labor organizations for certain undesirable practices on the part of management, denies to management any redress for equally undesirable actions on the part of labor organizations. Moreover, as a result of certain administrative practices which developed in the early period of the act, the Board has acquired a reputation for partisanship, which the committee bill seeks to overcome, by insisting upon certain procedural reforms.[5]

These disastrous developments were the inevitable results of the one-sidedness of the Wagner Act and its unfair and partisan application by the Board.

ABUSES CORRECTED BY NEW LAW

As far back as the Seventy-sixth Congress in 1939, attempts were made to remedy the evils arising out of the Wagner Act[6] and the so-called Smith bill designed to achieve the needed reforms was passed by the House.[7] But it was not until 1947, when the Congress passed the Taft-Hartley Act, that the goal was achieved. Without any material alteration in the rights previously guaranteed employees by the Wagner Act, safeguards were provided against the most serious abuses arising out of the unfettered activities of labor unions as well as employers. Employees were protected against intimidation and coercion by unions or employers, and were guaranteed the right to refuse to join in union actions if they so desired. Employers were protected against refusals of unions to bargain, and against union practices that left employers completely defenseless while their enterprises were being ruined, both economically and physically. An attempt was made to safeguard the public where labor disputes imperiled the general health, safety or interest.

THE TAFT-HARTLEY ACT

The Taft-Hartley Act was the answer given by Congress to the public demand no longer to be denied for a termination of the abuses which had sprouted from the Wagner Act. Its enactment was attended by the bitterest opposition. During long hearings which preceded enactment, not a single union leader among the many who testified would admit the existence of a single abuse or the need for the slightest legislative change. Union leaders who saw their dictatorial powers threatened denounced the new legislation as a "slave-labor act." Even the widespread influence of communism in the labor movement and the need for its elimination was vehemently denied. This despite the existence of conditions which only a few

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[5] S. Rept. No. 105, 80th Cong., 1st sess., p. 2.

[6] Intermediate Report of the Special Committee of the House of Representatives, 76th Cong., 1st sess., appointed pursuant to H. Res. 258 to investigate the National Labor Relations Board, H. Rept. No. 1902.

[7] H. R. 9195, 76th Cong., 3d sess. Passed by the House by a vote of 258 to 129.

weeks ago compelled the CIO to expel from its ranks several large Communist-dominated international unions. After its passage by large majorities of both Houses of Congress, President Truman in his veto message found not a single virtue in it. Nevertheless his veto was overridden by a majority in excess of two-thirds of each House.

Nevertheless the enemies of the Taft-Hartley Act continued to carry on their campaign of opposition. The repeal of the so-called slave-labor act became the slogan of the trade-union movement and the frankly avowed goal of the President, who during his campaign for election demanded its repeal. Yet, despite the elections of 1948, which gave the Democratic Party control of both Houses of Congress, a majority of Taft-Hartley Act supporters were returned to each branch. Since then the people's approval of the Taft-Hartley Act has been so strong that the President has been unable to muster enough of his own party membership in Congress to bring about repeal of the act. Thrice thwarted by the will of the people as expressed through their Representatives in Washington, the President has resorted to an expedient of dubious legality in order to circumvent the wishes of the majority of the American people and to strike a body blow at the act by investing again in the Board the powers expressly taken from it by the act, by sending to Congress Reorganization Plan No. 12.

NEED FOR SEPARATION OF FUNCTIONS

The most essential possession of any governmental body charged with enforcing the law is its ability to inspire public confidence in its impartiality and freedom from bias. The Wagner Act and its administration destroyed this confidence among important segments of the American public, including large segments of rank and file union members.[8] The one-sided provisions directed against employers, coupled with a fanatical zeal to apply the law to the uttermost limits, created over the years an agency which inevitably regarded management as unqualifiedly bad and labor unions as the repositories of righteousness. This attitude permeated the Board's activities in the processing of cases from the initial investigation to the decision by the Board. The Board was investigator, prosecutor, jury, and judge, and its bias and prejudice prevailed in each of these roles. It is small wonder that there came a conviction especially in the minds of those who came within the Board's jurisdiction, that the Board having issued its complaint and prosecuted an employer, would not in its judicial capacity reverse the position it had originally taken, or mete out equal justice under law.[9]

The joinder of the functions of prosecutor and judge is opposed to the deep-seated sense of justice of our people. A foundation stone of our whole philosophy of government finds expression in the principle of the separation of powers contained in our fundamental law, the Constitution. Neither efficiency, economy, nor smoothness of operation in the functioning of government, is so important as to justify a

[8] Organized labor itself voiced this lack of confidence in the Board. Thus, William Green, president of the American Federation of Labor, in a hearing before the Special Committee to Investigate National Labor Relations Board, House of Representatives, 76th Cong., January 25, 1940, stated: "We charge the Board with maladministration, with bias, with an attempt to apply their own peculiar philosophy in the disposition of cases, rather than the plain provisions of the act."

[9] Dissenting opinion in *Myers* v. *United States* (272 U. S. 52).

rejection of this basic principle. In the words of the late Mr. Justice Brandeis of the Supreme Court:

> The doctrine of the separation of powers was adopted by the Convention of 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction but by means of the inevitable friction incident to the distribution of the governmental powers among three departments to save the people from autocracy.[10]

Particularly in the field of labor relations is the problem acute. Unlike most other quasi-judicial agencies, the National Labor Relations Board is faced by adversary parties, often bitterly hostile to each other. Here, if anywhere, the judicial attitude is absolutely essential. How can such an attitude be achieved and maintained by an agency which, at the request of one of the opposing parties, investigates and zealously prosecutes the other party, and then hastily donning its judicial robes, sits in judgment between the two?

The need for separating the prosecuting from the judicial functions in the field of labor law has been recognized for years. Thus, in 1940, the Special Committee to Investigate the National Labor Relations Board, stated that the Board "has been unfair and biased in its conduct," "grossly partisan" to certain unions, and "most deplorably biased in its relations to employers and employees," [11] and that there was no criticism of the Board which had been more consistent "than the failure to separate its administrative and judicial functions, which separation is the very cornerstone of our whole democracy." That committee of the House, the membership of which was overwhelmingly Democratic, recommended the creation of an independent "Administrator" of the Board "in order that a true separation, in accordance with a genuine regard for democratic principle, will be achieved." [12]

SEPARATION OF FUNCTIONS PROVIDED BY TAFT-HARTLEY ACT

In the Taft-Hartley Act, Congress finally achieved for the National Labor Relations Board the separation that had for so long been recognized as essential to a true administration of justice and a restoration of public confidence in the processes of the act. In amending the Wagner Act it provided for Presidential appointment of a General Counsel with final authority (completely independent of the Board) to investigate charges of unfair labor practices, to issue complaints, and to prosecute such complaints before the Board.[13] The legislative history of this provision establishes beyond any possibility of doubt that in adopting the provision Congress was enacting not merely a procedural or structural change, but basic, substantive legislation.[14]

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[10] H. Rept. No. 3109, 76th Cong., 3d sess.

[11] William Green, president of the American Federation of Labor, in a letter to Congressman Smith of Virginia, approved that provision of H. R. 9195 (the Smith bill), calling for separation of the judicial and prosecuting functions of the Board.

[12] H. Rept. No. 1902, 76th Cong., 3d sess., particularly p. 89, and pp. 15 and 19 of pt. 2. In 1937 the President's Committee on Administrative Management which was approved by President Roosevelt advocated the complete separation of judicial and prosecuting functions in all agencies of the Government and recommended that the prosecuting function should be given to an independent agency (p. 229 of said report). Thereafter a concern with this problem indicating realization of the need for at least some degree of separation of function was expressed by the Attorney General's Committee on Administrative Procedures (S. Doc. No. 8, 77th Cong., 1st sess.), and particularly by the minority of said committee. (See p. 207 of the committee's report.) This concern found partial expression in secs. 5 and 11 of the Administrative Procedure Act of 1946 (5 U. S. C., secs. 1001 et seq.).

[13] Sec. 3 (d), National Labor Relations Act, as amended.

[14] H. Rept. No. 245, 80th Cong., 1st sess., pp. 6, 26, 40, 74; S. Rept. No. 105, 80th Cong., 1st sess., p. 9; 93 Congressional Record, pp. 6540, 1898–1900, 6598, 6599, 6600, 6612, 6655, 6666, 6672, 6693, 7001, 7691.

ATTITUDE OF HOOVER COMMISSION

Plan No. 12 is not in accord with the recommendation of the Hoover Commission. With respect to the regulatory commissions, it recommended that all administrative responsibility be vested in the chairman of the agency.[15] A reading of the report in its entirety, however, and the report of the task force upon which the Commission report is predicated, clearly discloses that what the Commission thus had in mind were merely the ordinary day-to-day matters of routine administration. There is no indication whatsoever that the Commission intended to recommend the abolition of the office of the General Counsel and vesting in the Chairman of the Board or the Board itself the extensive prosecuting functions which, under the Taft-Hartley Act of 1947, had been deliberately placed by the Congress under the sole and independent jurisdiction of the General Counsel.

Clear and convincing evidence that the Hoover Commission did not recommend the abolishment of the independent office of the General Counsel and the discontinuance of a separation of the prosecuting and judicial functions, is found in the concluding recommendations of the task force,[16] which reads as follows:

> Our staff recommends the creation by Executive order of a Council of Labor under the Chairmanship of the Secretary of Labor and including the General Counsel and other Federal officials concerned with labor problems. The function of the Council would be to coordinate Federal labor policy and to advise the President on appropriate action. This represents a compromise between the present independent status of the General Counsel and his subordination to a department head.
>
> Others have strongly urged that the office should again be placed under the Board. To this the objection is made that the prosecuting functions should be separate from the hearing of complaints. But as has already been indicated, only in part are his present duties general prosecution; some parts are administrative and parts are a species of rule or policy making. It may be that the administrative and policy-making functions could be subordinated more clearly to the Board's control while still maintaining an adequate separation of the truly prosecuting activities.

It is obvious from the above-quoted portion of the report of the task force that, while some criticism of the present plan of organization was intended, the abolition of the office of the General Counsel was not even considered by the Commission and that the desirability of continuing the current divorcement of the prosecuting functions from the judicial functions was clearly recognized.

SPECIOUS ARGUMENTS FOR PLAN

It has frequently been asserted that the independent office of the General Counsel should be abolished and the Board itself vested once again with both the prosecuting and judicial functions, because all other administrative agencies possess and exercise these dual functions. It is further argued that the separation of function decreed by the Congress in the Taft-Hartley Act, is thus inconsistent with the Administrative Procedure Act, which is uniformly applicable to other administrative agencies such as the Interstate Commerce Commission, Federal Communications Commission, and Securities and Exchange Commission.

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[15] See p. 5 of the Report on Independent Regulatory Commissions, submitted to the Congress in March 1949.

[16] See p. 140, task force Report on Regulatory Commissions, submitted to the Congress in January 1949.

While this argument has surface plausibility, it overlooks important facts. In the first place, not every administrative agency possesses both judicial and prosecuting functions. For more than 20 years the Board of Tax Appeals never possessed or exercised prosecuting or investigating functions. During this period its duties were limited by statute to passing upon controversies between the Commissioner of Internal Revenue and taxpayers, all decisions, however, being subject to review, like those of the National Labor Relations Board, by the circuit court of appeals, and the Supreme Court. The investigatory and prosecuting functions in tax matters were vested by the Congress in the Treasury Department. The ultimate establishment by the Congress of the Tax Court to replace the Board of Tax Appeals was, of course, in perfect harmony with the long history of separation of functions in this field.

Secondly, the National Labor Relations Board, unlike other administrative agencies, was not vested by Congress with any broad grant of power to make labor policy or regulations. Unfair labor practices by both employers and labor organizations are precisely defined by statute and the function of the Board, like the function of any judge, is merely to ascertain whether or not those against whom the complaints have issued have committed the acts as alleged, and whether such acts are contrary to law. Thus it is apparent that there is a vast distinction to be drawn between the National Labor Relations Board and agencies such as the Securities and Exchange Commission, Federal Communications Commission, Federal Power Commission, and Interstate Commerce Commission, which have been vested by the Congress with a broad administrative discretion. In short, the very nature of the Board's operations under the Taft-Hartley Act differentiate it from other administrative agencies and clearly justify the present statutory scheme relative to the separation of functions.

It has also been argued that it is very dangerous to concentrate the entire prosecuting functions under any statute in a single official, as the Taft-Hartley Act did when it created the statutory office of General Counsel.

It is difficult to understand how anyone with the slightest knowledge of our governmental structure could ever make this argument. Ever since the creation of the first Cabinet, the major prosecuting functions in the Government have been vested in a single official, the Attorney General of the United States. It has never been suggested that his powers and responsibilities could better be exercised if the Department of Justice were administered by what one witness before our committee, the Director of the Budget, termed "a multiheaded agency."

Moreover, any excessive zeal on the part of the General Counsel, like any other prosecutor, is subject to the check of the Board and the courts, for he has no power to decide cases or to issue orders against anyone.

It is said, however, that a party aggrieved by an unfair labor practice could be effectively deprived of his rights under the law if the General Counsel refused to issue a complaint in a meritorious case. This would be equally true, however, if Plan No. 12 were approved because, if the Labor Board refused to issue a complaint, the party wronged by such an abuse of discretion would equally have no recourse to the courts.

No testimony whatsoever was received by this committee to indicate that the General Counsel has been derelict in dismissing charges

which have merit without issuing a complaint. Indeed, one complaint made by the Board is that the General Counsel has issued complaints when the Board thought he should not have done so. A memorandum submitted by the General Counsel's office completely dispels the impression which has been created in some quarters that unions have suffered from the creation of his office. In fact, a greater percentage of charges filed against labor unions has been dismissed than charges filed against employers. The statistical record since the effective date of the Taft-Hartley Act, August 22, 1947, through February 28, 1950, reveals that of 2,760 charges filed against labor organizations, 542, or 19.7 percent, were dismissed. These totals should be compared with the figures showing that of 9,543 charges filed against employers, 1,688 or 17.6 percent, were dismissed.

In spite of the purely political campaign against the new law which has been carried on with unflagging energy, and the refusal of the President to use it on occasion, the experience of almost 3 years under the Taft-Hartley Act demonstrates that the act as a whole and the separation of functions in particular has been successful in operation. Not only has labor not been enslaved, but public confidence has been somewhat restored in the administration of the Nation's labor law.[17] No one has charged that cases involving unfair labor practices by employers have been less zealously prosecuted than they were under the Wagner Act. Opposition springs rather from the fact that unfair labor practices by unions have been prosecuted with comparable zeal. But it is precisely this equality of treatment which demonstrates the impartiality with which the law is now being administered by the office of the General Counsel.

PLAN NO. 12 WOULD IMPEDE BOARD'S JUDICIAL FUNCTIONS

In this connection it should not be overlooked that a salutary effect of the separation of functions has been to release the Board from the pressure of interested parties at the early predecisional stages of Board proceedings. Thus, Mr. Gerard D. Reilly, a former Board member himself, testified before this committee on March 21, 1950, that under the Wagner Act, litigants, their representatives, and Members of Congress often contacted and called upon Board members in connection with pending cases, particularly where the Board had sustained the refusals of regional directors to issue complaints. As a result, cases often reached the Board for decision with one or more of the Board members already in possession of some information or argument acquired at an earlier stage from interested parties. In 1941, for example, the Court of Appeals for the Third Circuit refused to enforce an order issued against an employer when it was brought to the court's attention that one of the Board members had acquainted a friend of his with some information about the case he had learned in its preliminary stage.[18] Under the present law all such pressures and contacts are directed exclusively to the General Counsel, informal settlements can be freely made, and yet the Board itself remains free

[17] See interim report of the Special Joint Congressional Committee on Labor-Management Relations filed March 15, 1948 (S. Rept. No. 986, 80th Cong., 2d sess.), and the final report of this same committee filed on December 16, 1948, after some 16 months of operations under the amended act (idem, pt. 3).

[18] *Berkshire Knitting Mills* v. *NLRB* (121 F. 2d 235). The court said: "If the circumstances alleged are proved [the employer] did not have a hearing before an impartial tribunal, but one in which one member of the body which made exceedingly important findings of fact had already thrown his weight on the other side."

from any embarrassing connection therewith that might cast suspicion on its judicial integrity if the case should eventually come before it.

While the Hoover Commission itself made no specific recommendations respecting the Labor Board in particular, it did publish a report of a so-called task force, which made some comment upon the Board and its administration. According to the task force, the greatest shortcoming in the operation of the present-day Labor Board is the fact that a lapse of from 1½ to 2 years [19] must be expected between the filing of a complaint and final Board decision. This plan, far from being calculated to correct this condition, would actually aggravate the situation by interfering with the time available to the Board members for the performance of their judicial duties.

REORGANIZATION ACT NOT INTENDED TO FORCE BASIC LEGISLATION UPON CONGRESS

The Reorganization Act of 1949, pursuant to which Plan No. 12 has been submitted to the Congress, is designed to achieve efficiency and economy in the internal administrative functioning of governmental agencies. Its legislative history demonstrates that in enacting it Congress did not intend it to be used as a means for amending or modifying existing provisions of basic or substantive law.[20] Its purpose was to permit the effective carrying out of the recommendations of the Hoover Commission and, as we have shown, the Commission has not recommended the obliteration of the separation of functions which exists under the Taft-Hartley Act. Moreover, the President's report on the proposed reorganization plan concedes that no substantial economy will be achieved by it.

ADOPTION OF PLAN 12 WILL NOT PROMOTE EFFICIENCY

As for the promotion of the agency's efficiency, that result is hardly likely to be achieved by requiring the Board to submit once again to the pressures which were exerted under the Wagner Act, and to devote a large portion of its time, which should be devoted to judicial duties, to making decisions at the initial stage, decisions now made by the General Counsel. The shrinkage in the Board's backlog which has continued steadily would be halted and the tendency reversed. The backlog would grow as it did under the Wagner Act and important cases would wait interminably for decision. Burdened with the additional duties now performed by the General Counsel, efficiency, the objective of the Reorganization Act of 1949, would scarcely be attained.

Under questioning from the committee, the present Chairman of the Board, who testified in favor of the plan, conceded that the time of the Board members was already fully consumed by the duties they are now required to perform. While he suggested that one aspect of the plan would leave the associate members of the Board with more time to perform their judicial duties, since it places upon the Chairman the responsibility for personnel and budget matters, he overlooked the fact that even under the plan the duty of passing upon appeals from

[19] The task force stated that the "chief bottleneck" is the Board because "a larger volume of work is generated than can be disposed of in a reasonable manner."

[20] H. Rept. No. 23, February 7, 1949, 81st Cong., 1st sess.; 95 Congressional Record, pp. 891–918, February 7, 1949.

regional offices with respect to the nonissuance of complaints is an additional duty which would have to be performed by the entire Board.

A former Board member who testified stated that in the past this purely prosecuting task had occupied 3 mornings a week.

The Director of the Budget tried to minimize this defect in the plan by contending that these duties could largely be delegated to subordinates by an expression of policy on the part of the Board as to when complaints should issue under a given set of facts. This is an example of the wishful thinking which all too frequently characterized the theoretical approach of some planners to the problems of the operating agencies. Cases in which the application of some precedent is clear would of course occasion no difficulty and would still be handled in the regional offices as they are today. It is the close questions of law and fact which do not fit exactly into the pattern of any decided case which caused the Board to bog down before and which, if this reorganization plan becomes law, will again disrupt its operations. Moreover, while it is true that the Board could again delegate the duty of passing upon administrative appeals from the field in the first instance to its principal legal officers, or a special committee, the testimony at the hearings shows that the Board members themselves still would have to hear protesting litigants. Consequently, there is no reason to believe that the Board can successfully delegate these functions if Congress charges it with the statutory responsibility of performing them.

Is there any reason to believe that an attorney designated by the Chairman of the Board or by the Board to determine whether a complaint should be acted upon would be as impartial or as free from prejudice as the General Counsel appointed by the President?

There was some suggestion by several of the members who signed the majority report that if the Board's currently narrow views on jurisdiction prevailed, its current backlog would be reduced to some extent as fewer complaints would issue. There was little, if any, evidence to sustain this theory over the long run because the scope of the Board's jurisdiction will be solved very shortly by a case now pending.[21]

In any event, while much was made in the testimony of the differences of opinion between the present Board and the General Counsel on the scope of the act, the number of cases dismissed by the Board because of lack of jurisdiction are only an insignificant portion of its current docket. One witness estimated it was less than half of 1 percent and this testimony was uncontradicted.

NO AUTHORITY FOR PLAN NO. 12

Section 5 (a) (4) of the Reorganization Act of 1949 provides that no reorganization shall provide for or have the effect of authorizing any agency to exercise any function which is not expressly authorized by law at the time the plan is transmitted to the Congress. This limitation on the powers with respect to reorganization raises serious doubts as to the validity of the proposals contained in Reorganization Plan No. 12. By that plan the President transfers to the Board and its Chairman all the "functions" of the General Counsel, including his

[21] *Haleston Drug Stores, Inc.* v. *N. L. R. B.*, now before the U. S. Circuit Court of Appeals for the Ninth Judicial Circuit.

statutory duty of issuing and prosecuting complaints independent of the Board. As we have shown by reference to the legislative history of the Taft-Hartley Act, the act was designed to remove the duty of issuing complaints from the Board's control in order to enable the Board to render decisions free of possibility of any prejudgment acquired during the investigation which preceded the issuance of a complaint.

In the light of these facts it cannot be said that all that is involved here is the simple transfer of the function of issuing complaints from the General Counsel to the Board. The function which Reorganization Plan No. 12 attempts to confer upon the Board is not merely this authority mechanically to issue complaints but the new function of rendering decisions on complaints which the Board itself has issued. A hypothetical example may illustrate this distinction more clearly. If Reorganization Plan No. 12 had provided that the functions of the General Counsel should be transferred to some agency other than the Board itself there could be no question of the legality of such a plan, provided that as a result of the transfer the agency to which the function had been transferred continued to exercise the prosecuting functions of the Taft-Hartley Act autonomously and independent of the Board, and left the Board free to issue decisions according to the intent of Congress. In such a plan the basic congressional policy of separating the prosecuting from the adjudicating function would be preserved and the transfer would not have resulted in the conferring upon the Board a function which did not exist in law. But where, as is true under Plan No. 12, the prosecuting function is transferred to the Board, the substantive congressional policy of the Taft-Hartley Act is clearly altered. In place of the congressional policy set out in the Taft-Hartley Act, Plan No. 12 creates a new and violently different one materially affecting substantive rights of parties in proceedings before the Board.

In other words, one of the important safeguards created by the Taft-Hartley Act was the right of a party at whom a complaint is directed to have the case judged by a tribunal which had nothing to do with its preliminary appraisal. He is as much entitled to retain it under any valid reorganization plan as he is to retain the safeguards with respect to the rules of evidence or the increased scope of judicial review.

The importance of this right of a litigant to this safeguard is nicely stated by the Third Circuit Court of Appeals in the case of *Berkshire Knitting Mills* v. *National Labor Relations Board*: [22]

> Nevertheless, if the administration of public affairs is to find its place within the present framework of our Government it is essential that it proceed, on what may be termed its judicial side, without too violent a departure from what many generations of English-speaking people have come to regard as essential to fair play. One of these essentials is the resolution of contested questions by an impartial and disinterested tribunal * * *.

How can the Board act as impartial and disinterested tribunal when, in the precomplaint stage of proceedings, it had been required already to review the facts and the law so as to make a determination of the question whether or not to issue a complaint?

It is contended that the Administrative Procedures Act [23] provides an adequate safeguard in this respect. The simple answer to that

[22] 121 F. 2d, 235, 238.
[23] 60 Stat. 237, 5 U. S. C., sec. 1001 et seq.

contention is that when the Taft-Hartley law was enacted Congress did not believe that the safeguards of the Administrative Procedures Act was sufficient insurance against the evil of a prejudiced tribunal. Accordingly, the Congress went beyond the Administrative Procedures Act and completely separated the judicial from the prosecuting functions.

The inevitable effect of the President's Reorganization Plan No. 12, if not rejected by the Congress, is to destroy the capacity of the Board to act as an impartial tribunal as intended by Congress. Under the false cloak of economy and efficiency, it would repeal a deliberate effort of the Congress to grant, in the name of justice, an important right to litigants involved in Federal judicial proceedings. This action would be beyond the permissible scope of the Reorganization Act of 1949 and, therefore, would make every judicial decision of the Board subject to attack in the appellate courts.

In the light of the serious doubts as to the legal validity of Reorganization Plan No. 12, there is no justification for Congress to run the risk involved in permitting the plan to become effective. If a majority of the Congress is convinced that the elimination of the independent General Counsel and the separation of function is desirable, rejection of the reorganization plan does not deprive Congress of the power to attain its objective through the normal, legislative processes. In any event, the latter alternative is the appropriate one for dealing with proposed changes in substantive law and basic congressional policy expressed in legislation. It seems to us highly improper to seek to circumvent the congressional will where direct efforts to change it have been unsuccessful.

Whatever the controversy between the National Labor Relations Board and the General Counsel, the fault lies not in the separation of the functions of prosecutor and court, but in part is due to a failure to make that separation complete and, in part, to the desire of the Board to perform functions denied it—given to the General Counsel by the Congress.

The legislative history of the present law indicates clearly a congressional intent that the Board occupy the role of a court. It is only in those instances where the Board has stepped beyond that role—as it, in some instances, legally could because of the absence of expressed limitations in the statute—that friction has resulted. It the Board is not content to act as a court, if the General Counsel is clinging tenaciously to his own opinion as to the construction which should be placed upon the law, and if the courts do not soon settle the controversy, then the Congress should rewrite and redefine in no unmistable terms the duties and the authority of the Board and of the General Counsel.

It would be most unwise to take the ill-advised step proposed by Plan 12. Adopting that method of legislating would set a precedent, inviting the President every time there was controversy in any branch of the executive department to yield to the most insistent and persuasive agency or group, send to the Congress a plan embodying the views of the disgruntled group, requiring at least one House of the Congress by a constitutional majority to reject it unless it was to become the law of the land.

The Taft-Hartley Act for the first time in the history of labor legislation attempted to give protection to nonunion employees, to employers and to the public.

Experience has demonstrated that the creation of the office of General Counsel and the separation of prosecuting functions from the judicial functions in the interpretation and administration of the law has removed much of the dissatisfaction of employees, employers, and the public which grew out of the prior act, its interpretation and enforcement.

Experience may have demonstrated that in the application of the Taft-Hartley Act, as in other laws, there is room for improvement. If that be true, then the Congress in which is vested all legislative power should make the necessary changes openly, directly.

A law written in answer to the overwhelming demand of the people should not, through indirection and subterfuge, have one of its most effective remedial provisions repealed by the failure of one House of Congress to act on a reorganization plan.

If a functional principle of the Taft-Hartley Act is to be repudiated, let it be done in the open and by the direct act of Congress—not by a failure of either House to act.

Respectfully submitted.

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WASHINGTON, D. C., *March 28, 1950.*

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Calendar No. 1527

81st Congress, 2d Session | SENATE | Report No. 1516

REORGANIZATION PLAN NO. 12 OF 1950 PROVIDING FOR REORGANIZATION OF THE NATIONAL LABOR RELATIONS BOARD

April 24 (legislative day, March 29), 1950.—Ordered to be printed

Mr. McClellan, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany S. Res. 248]

Together with the

MINORITY VIEWS

The Committee on Expenditures in the Executive Departments, to whom was referred Senate Resolution 248, expressing disapproval of Reorganization Plan No. 12 of 1950 (Reorganization of the National Labor Relations Board), having considered the same, report favorably thereon, and recommend that the resolution do pass. The effect of the adoption by the Senate of Senate Resolution 248 will be to prevent Reorganization Plan No. 12 of 1950 from becoming effective.

The Committee in executive session on April 17, 1950, took favorable action upon Senate Resolution 248 by a vote of 9 to 4. Members of the committee voting in the affirmative were: Senators McClellan (chairman), Eastland, Hoey, O'Conor, McCarthy, Mundt, Smith of Maine, Schoeppel, and Vandenberg. Members voting against the resolution were: Senators Humphrey, Leahy, Benton, and Ives.

Summary of Committee's Findings

The committee conducted public hearings upon Senate Resolution 248, receiving testimony from nine witnesses in behalf of the approval of the resolution, and three against it. In reporting the resolution of disapproval favorably, the committee agreed substantially with the following points raised by opponents of plan No. 12:

1. The plan repudiates a policy overwhelmingly expressed by Congress as recently as 1947.

2. The plan would destroy public confidence in the impartiality of the administration of laws regulating labor-management relations.

3. The plan would return the National Labor Relations Board to the discredited role of grand jury, prosecutor, and judge.

4. The plan is defective in that it fails to specifically provide where the most important functions of the General Counsel are to be lodged.

5. The plan goes beyond the Hoover Commission's recommendations affecting the Government's regulatory agencies. The Hoover Commission made no specific recommendation concerning the National Labor Relations Board.

6. The plan would not accomplish the objectives of the Reorganization Act of 1949 relating to efficiency and economy.

7. The plan, by concentrating the functions of grand jury, prosecutor, and judge in the Chairman and Board, is contrary to sound principles of Government.

8. The plan provides no satisfactory remedy for the alleged deficiencies in the present law such as questions relating to jurisdiction, appointment of personnel, and appeals from refusal to issue unfair labor practice complaints.

9. The plan, by giving the Board many additional duties, would further delay its decision of cases.

10. The plan would subject the Board to pressures and influences in case-handling at the initial stage.

11. The plan would bring about extensive litigation pending tests of its legality in the courts.

12. The plan would not effectuate any substantial economy.

The President transmitted to the Senate and the House of Representatives in Congress assembled, on March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949 (Public Law 109, 81st Cong.), Reorganization Plan No. 12 of 1950, providing for reorganization of the National Labor Relations Board. (The plan, and the President's message which accompanied it, are included as appendices at the end of this report.)

Under the provisions of the Reorganization Act of 1949, this plan will take effect upon the expiration of the first period of 60 calendar days of continuous session of Congress, following the date on which the plan is transmitted to it, unless, by affirmative vote by a majority of the authorized membership of either of the two Houses a resolution of disapproval is passed stating in substance that that House does not favor the reorganization plan. Senate Resolution 248 has been submitted in the form prescribed by the act, approved by the committee, and is herewith submitted to the Senate for consideration. Section 6 of the Reorganization Act of 1949, under subsection (b), provides as follows:

> For the purposes of subsection (a) (providing for the taking effect of a plan after the expiration of 60 days). (2) In the computation of the sixty-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

Since the House, with the approval of the Senate, did take a recess of more than 3 days—from April 6 to April 18, 1950—under authority of House Concurrent Resolution No. 193, the effective date of this plan will, therefore, be extended by 11 additional days, and the plan will, unless disapproved in the above-prescribed manner by either House, become effective on May 24, 1950.

HISTORY OF THE NATIONAL LABOR RELATIONS BOARD

(1) The NLRB under the Wagner Act

The committee was fortunate in hearing witnesses who presented an accurate picture of the operation of the NLRB both under the Wagner Act (when there was no separation of prosecution from judicial functions, which would be restored under Reorganization Plan No. 12), and under the Taft-Hartley Act with an independent prosecutor.

Under the Wagner Act the Board established some 20 regional offices. Each regional office was headed by a regional director and a regional attorney. A staff of field examiners investigated charges and petitions under the direction of the regional director. A staff of field attorneys under the direction of the regional attorney tried cases upon complaints of unfair labor practices issued by the regional director and at times acted as hearing officers in representation cases. Regional directors were generally responsible to a director of the field division in Washington while the regional attorney reported to the General Counsel also in Washington. The General Counsel and director of the field division were, of course, appointed by and performed their functions under the supervision of the Board.

The Wagner Act operated only against employers. Charges were, therefore, filed by labor organizations and on occasion by individual employees. When a charge alleging that an employer had committed an unfair labor practice was filed in a regional office it was assigned to a field examiner for investigation. If his investigation convinced him that the act had been violated and he was unable to obtain a voluntary settlement, he made a complete report and a recommendation that complaint issue against the employer. During the first 5 years of operation under the Wagner Act all recommendations for complaint had to be passed upon by the Board before complaint could issue. Later, more and more discretion was given to the field offices in the issuance of complaints.

When a request for advice on issuance of complaint came into Washington from a regional office it was referred to a committee designated by the Board from the higher echelons of the Washington staff. This committee made a digest of the facts contained in the file and presented the matter orally before the Board, which then decided whether complaint should issue. In some instances when the regional offices dismissed a charge, either on advice from Washington or on their own decision, as they could in later years, an appeal was taken by the union. This appeal, and supporting briefs, if any, followed fairly closely the procedural steps outlined above with respect to requests for advice, until it was determined by the Board itself.

If it were finally determined that complaint should issue a trial was held before a trial examiner sent from Washington from the Board's pool of trial examiners. Subsequent to the hearing the trial examiner issued a report and recommendation as to what the Board's order should be. His report and recommendation, the record, and briefs filed by the parties, were then studied by a group of lawyers known as the "review section" which prepared a digest and proposed order for the Board. If the employer refused to comply with the

Board's order when finally entered, the Board sought enforcement in the circuit courts of appeals, the legal work being performed by another group of Board attorneys known as the "enforcement" section.

It was inevitable that this procedure would lead to the charge that the Board acted as grand jury, prosecutor, and judge. The defendant employer was investigated by, prosecuted by, and tried before direct employees of the Board, and then finally judged by the Board. Where the initial decision to issue complaint followed either advice from the Board or upon overruling the regional office's refusal to issue complaint, the Board, in effect, had to prejudge the case. In such instances, it had before it affidavits of witnesses compiled by the field examiner comprising the evidence which would be presented at the trial; a summary of the defendant employer's defense to the charges; and analyses of the law prepared by both the regional and Washington legal staffs. In some cases, such as the Kaiser Shipbuilding case described by one of the witnesses, the prejudgment was practically complete. The action of the Supreme Court in passing upon an application for a writ of certiorari is in no sense comparable. There the facts have already been found by the district court and reviewed by the appellate court. The Supreme Court grants a petition for certiorari only where there are special and important reasons therefore and where the case presents a question of general importance which has not been, but should be, settled by the court. (Rule 38; *Eisler* v. *U. S.*, 338 U. S. 195; *Maryland* v. *Baltimore Radio Show*, 338 U. S. 917.)

History of the Wagner Act reveals clearly that the early members of the Board with an almost fanatical zeal extended that one-sided law to its uttermost limits. Board action in those days, beyond the shadow of doubt, forcefully reflected the Board members' interpretations of the Wagner Act that they had been given a mandate by Congress to place a labor union in control of the employees of every plant in America. Swift condemnation of the activities of the Board was voiced by the general public, spokesmen for management, and large segments of organized labor.

In 1940 a special committee was created by the House of Representatives to investigate the Board. It reported:

> * * * on the basis of the evidence and testimony before it (the committee) reached the conclusion that the Board has been unfair and biased in its conduct, its decisions, and its interpretation of the law. Likewise it has been grossly partisan in its attitude toward certain labor unions, and most deplorably biased in its relations to employers and employees * * *.[1]

The committee also reported that there was no criticism of the Board which had been more consistent on the part of litigants and the courts—

> than the failure to separate its administrative and judicial functions, which separation is the very cornerstone of our whole democracy.[2]

The House subsequently passed a bill (H. R. 9195, 76th Cong., 3d sess.) creating an independent Administrator to carry out the investigative and prosecuting function of the Board, but this bill was not acted upon in the Senate. Bills providing for the separation of the prosecution and judicial functions of the Board continued to be offered in both Houses of Congress in later years.

[1] See H. Rept. 3109, 76th Cong., 3d sess.
[2] See H. Rept. 1902, 76th Cong., 3d sess.

(2) *The NLRB under the Taft-Hartley Act*

In 1947 Congress enacted the Taft-Hartley Act (Public Law 101, 80th Cong., 1st sess.). The bill passed by the House of Representatives created an independent office of Administrator of the National Labor Relations Act and gave the Administrator all investigative and prosecuting functions. The Senate bill, while not divorcing the prosecution from the judicial functions of the Board, in a number of ways sought to improve the judicial function of the Board. For example the Board's review section was abolished in order that the decisions of the Board might be those of the Board members rather than those of an unidentified group of lawyers. Other protections were provided to insure that the report and recommendation of a trial examiner were his alone and not dictated by some unidentified supervisor.

STATUTORY BACKGROUND OF THE GENERAL COUNSEL

The conferees on the bill (H. R. 3020) adopted a new section (sec. 3 (d)), establishing the Office of General Counsel of the National Labor Relations Board. Its provisions are as follows:

SEC. 3. (d) There shall be a General Counsel of the Board who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel of the Board shall exercise general supervision over all attorneys employed by the Board (other than trial examiners and legal assistants to Board members) and over the officers and employees in the regional offices. He shall have final authority, on behalf of the Board, in respect of the investigation of charges and issuance of complaints under section 10, and in respect of the prosecution of such complaints before the Board, and shall have such other duties as the Board may prescribe or as may be provided by law.

The intent of Congress with respect to the independence of the General Counsel was made clear by the statement of the House managers accompanying the conference report on H. R. 3020, as follows: [3]

The conference agreement does not make provisions for an independent agency to exercise the investigating and prosecuting functions under the act, but does provide that there shall be a General Counsel of the Board, who is to be appointed by the President, by and with the advice and consent of the Senate, for a term of 4 years. The General Counsel is to have general supervision and direction of all attorneys employed by the Board (excluding the trial examiners and the legal assistants to the individual members of the Board), and of all the officers and employees in the Board's regional offices, and is to have the final authority to act in the name of, but independently of any direction, control, or review by, the Board in respect of the investigation of charges and the issuance of complaints of unfair labor practices, and in respect of the prosecution of such complaints before the Board. He is to have, in addition, such other duties as the Board may prescribe or as may be provided by law. By this provision responsibility for what takes place in the Board's regional offices is centralized in one individual, who is ultimately responsible to the President and Congress.

Soon after passage of the act, the Board and the General Counsel entered into an agreement whereby certain powers of the Board were delegated to the General Counsel. In general the delegation carried out the intent of Congress as expressed in the legislative history of the Taft-Hartley Act of confining the Board to the function of deciding cases and conferring on the General Counsel the duties of prosecutor and administrator. For example, the General Counsel was given appointment and removal power over the regional office personnel which he supervised and he was given the function of seeking enforce-

[3] Conference report, Labor-Management Relations Act, 1947 (H. Rept. No. 510, 80th Cong., 1st sess., p. 37).

ment of Board orders in the courts after the Board had decided to seek such an order.

The regional offices have continued to operate in a manner similar to that followed under the Wagner Act except that all personnel are now supervised by and responsible to the General Counsel. On unusual questions the regional director is required to seek advice from Washington before issuing complaint. To handle these advice requests, the General Counsel has created a committee composed of the chiefs of several of his departments. This committee briefs the facts and law involved and reports to the General Counsel who determines whether complaint shall issue. When a charging party seeks to appeal from a decision of the regional director refusing to issue complaint the appeal is processed by this same committee for the General Counsel's decision.

Thus, the procedure for handling "requests for advice" and "appeals from refusal to issue complaint" is almost identical with that employed by the Board when it had the prosecuting as well as the judicial function. Proponents of the plan list the fact that there is no appeal from the General Counsel's refusal to issue complaint as a most compelling reason for abolition of the General Counsel and return to the old system. We cannot accept their reasoning. There is no appeal to the courts now, nor would there be if the plan were adopted. It is argued that there is less chance for arbitrary and capricious action when the decision is made by five men. It may well be answered that one man solely responsible with the spotlight of publicity directly on him, knowing that he may be removed from office, is not going to be arbitrary about refusing to issue complaints. Furthermore, the General Counsel has established his own advisory staff so that decisions are made only after consultation with and upon the advice of competent experts. It seems to us that if there is a possibility of abuse here the remedy might be an appeal to the courts from the General Counsel's denial of the appeal from the regional director's refusal to issue complaint. But that matter is not before us. The Senate must take plan No. 12 without change or turn it down. On that basis, while we agree that there may be some merit in consideration of such appeals by five men rather than one, when it is considered that those five men must later decide the case, we believe that the procedure under present law is far superior on all counts to that provided by the plan.

During his testimony, the Chairman of the NLRB stated that in the event the plan is adopted, the Board might appoint an administrator to pass upon "requests for advice" and create a committee of high staff personnel to analyze "appeals" and present them to the Board as "hypothetical" cases. We believe it preferable to have decisions made by a man appointed by the President with confirmation by the Senate than by an unidentified Board appointee or committee who would be subservient to the Board. Nor, do we believe it would be possible to keep any important case in a "hypothetical" role.

Some proponents insist that the greater part of the duties of the Board are administrative rather than judicial. We do not believe that those who appear before the Board so regard them, for several important reasons. In both complaint and representation cases a

hearing is held before a trial examiner with all parties usually represented by counsel. Briefs are filed with the Board and oral argument is often granted. In representation cases the Board's decision as to appropriate unit and eligibility to vote may well decide whether the union can win the election and bargaining rights. In complaint cases the Board's order often imposes heavy financial responsibilities upon employers for back pay. Its negative orders (cease and desist) when enforced in the courts carry contempt-of-court sanctions when disobeyed.

We believe that the adoption of plan No. 12 and the resultant return to the Board of the dual functions of prosecutor and judge would destroy the public confidence which the Board has gained under the Taft-Hartley Act. We believe this would be true no matter how fair-minded the Board might be in the conduct of its affairs, because the Board performs its functions in an atmosphere charged with emotion, determining issues between parties hotly contesting their rights and quick to claim bias on the merest suspicion that such exists. The return of the prosecuting function would be an insurmountable handicap to maintenance of the confidence of the litigants and the public.

(3) The Administrative Procedure Act

In 1946, prior to passage of the Taft-Hartley Act, Congress passed the Administrative Procedure Act. Insofar as the Board was concerned that act effected no reform whatsoever. The separation of functions that it provided,[4] in substance, prohibited the trial examiner who heard a case from being subject to the supervision and direction of any officer engaged in the investigative and prosecuting functions and prohibited those engaged in the investigative and prosecuting functions from participating or advising in the decision. The testimony just recently presented to this committee clearly established that nothing in the Administrative Procedure Act required the Board to alter its then existing procedures. That act does not deprive an agency of any dual function of prosecutor and judge.

Beyond the fallacies inherent in Reorganization Plan No. 12, discussed above, many other important factors exist which, in the judgment of the majority of the committee, prohibit favorable action by the Congress upon the plan. The most important follow:

HOOVER COMMISSION DID NOT RECOMMEND PLAN NO. 12

Witnesses before the committee did not seriously contend that the Hoover Commission recommended the abolition of the independent office of the General Counsel. The committee was fortunate in hearing from two members of the Hoover Commission upon that

[4] 5 (c) Separation of functions: The same officers who preside at the reception of evidence pursuant to sec. 7 shall make the recommended decision or initial decision required by sec. 8 except where such officers become unavailable to the agency. Save to the extent required for the disposition of ex parte matters as authorized by law, no such officer shall consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate; nor shall such officer be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency. No officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency in any case shall, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to sec. 8 except as witness or counsel in public proceedings. This subsection shall not apply in determining applications for initial licenses or to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; nor shall it be applicable in any manner to the agency or any member or members of the body comprising the agency.

point. The following telegram, dated April 4, 1950, was placed in the record:

The Honorable ROBERT A. TAFT,
United States Senate, Washington, D. C.:

I have your inquiry as to the recommendation of the Commission on Organization of the Executive Branch of the Government as to the Counsel of the National Labor Relations Board. So far as I recollect this subject was never discussed by the Commission. There is no recommendation in the Commission's reports to Congress.

HERBERT HOOVER.

The committee's chairman who also served as a member of the Hoover Commission, during a discussion with a witness on the recommendations of that Commission, stated:

The CHAIRMAN. I did not want the record to remain silent in view of the fact that I served on the Commission. I know that it was not the purpose of the Commission to recommend that this office be abolished. Had that been its purpose, and had any member or majority of the Commission so recommended, there would have been a dissenting report written (hearings on Reorganization Plan No. 12 of 1950, p. 94).

A search of the report of the Hoover Commission and the task force report on regulatory commissions, on which the Commission's report is based, proves clearly that the abolition of the independent office of General Counsel as provided for by Reorganization Plan No. 12 was never contemplated by either.

Recommendation No. 1 of the report on regulatory commissions States:

We recommend that all administrative responsibility be vested in the Chairman of the Commission.

It is upon this one sentence that proponents of plan No. 12 must base their contention that there is some support for the plan in the Commission's recommendations. It appears obvious that the Commission had in mind the ordinary day-to-day matters of routine administration which have customarily taken the time of all members of the Board. It is "administrative responsibility" that recommendation No. 1 of the Hoover Commission would transfer and it should be noted that the recommended transfer is to the Chairman and not to the Board.

Those who seek to find authority for the President's plan No. 12 in recommendation No. 1 of the Hoover Commission must make the argument that when the Hoover Commission used the term "administrative responsibility" it meant to include the function of issuing complaints. But when the President, in Reorganization Plan No. 12, used the term "administrative functions" (transfer of the General Counsel's functions by section 1 to the Chairman, as distinguished from the Board) these same proponents must argue that the function of issuing complaints is not included, since section 3 of the plan transfers other than "administrative functions" of the General Counsel to the Board. In other words when the Hoover Commission used the term "administrative" it meant one thing and when the President used it something else according to some proponents of plan No. 12.

Close study of the Hoover Commission's Report on the Department of Labor indicates strongly that the Commission intended no sweeping reorganization of the National Labor Relations Board as proposed by plan No. 12.

Discussing the restoration of the Federal Mediation and Conciliation Service to the Department of Labor and the possible placing, for

housekeeping purposes, of the National Mediation Board and the National Labor Relations Board in the Department, the Commission reached this conclusion (p. 18, Hoover Report No. 13 on Department of Labor):

> The Congress is engaged in revising labor policies which will affect some of these agencies. The Commission can make no recommendations as to their organization until these questions are settled.

Further evidence that plan 12 is contrary to the Hoover Commission reports is contained in a statement issued on April 13, 1950, by the Citizens Committee for the Hoover Report, which analyzed the 21 reorganization plans submitted to the Congress. The Citizens Committee stated:

> At the same time, the plan raises issues which are not wholly organizational, but are matters of national, political and economic policy * * *. In this respect, the plan goes beyond the terms of reference of the Citizens Committee, as stated in its charter and bylaws, in such a way as to render complete endorsement or disapproval of the plan equally impossible.

The Chairman of the National Labor Relations Board, Mr. Paul M. Herzog, in response to a request from the chairman of this committee relative to his views regarding the recommendations of the Hoover Commission, responded on June 17, 1949, to the effect that—

> the Hoover Commission's recommendations on general management do not call for any substantial changes in organization, policies or procedures of the National Labor Relations Board.

His letter concluded with the following comments with reference to the Hoover Commission's Report on Regulatory Commissions, which he stated included—

> two recommendations which particularly concern the National Labor Relations Board; the remainder relate to other regulatory agencies or apply generally to all, and do not call for special comment in this report.

His conclusions were as follows:

> (1) The Commission has recommended that in regulatory commissions "all administrative responsibility be vested in the chairman of the commission." In the National Labor Relations Board, administrative responsibilities were divided by the Labor-Management Relations Act of 1947 between the five-member Board and the independent General Counsel. The Office of the General Counsel is organized and operates like a regular administrative or investigative agency with all administrative responsibilities concerning its internal operations centering in the General Counsel. In the offices of the Board, administrative responsibility rests with the Chairman by virtue of an informal understanding that he will consult the other Board members on any major administrative questions. Coordination of internal operations of the offices of the Board is the immediate responsibility of the Board's executive secretary.
>
> (2) The Hoover Commission's recommendation that statutes be amended to permit the delegation to the Commission's staff of routine, preliminary, and less important work has, we believe, already been put into effect as far as possible by the National Labor Relations Board. Preliminary hearings of cases are conducted by agents of the Board, and most cases are decided by the Board on the basis of the record without hearings before the Board itself. The Labor-Management Relations Act of 1947 authorized the Board to set up panels of three members with full authority to decide cases. Certain routine cases are handled by subpanels of the Board's chief legal assistants. These measures have materially speeded the Board's processes.
>
> It will be seen from the foregoing comments that, with respect to the National Labor Relations Board, substantial direct savings in operating costs or reductions in personnel may not follow upon the adoption of applicable recommendations of the Commission on Organization of the Executive Branch of the Government. The Commission itself reaches this conclusion in its report on regulatory agencies

(p. 17), but it does state that real savings will be found elsewhere in the form of speedier and more efficient handling of cases. The National Labor Relations Board will continue to seek to improve further the economy and efficiency of its operations along the general lines suggested by the Commission's reports.

It is indeed difficult to see how any fair-minded person can interpret the Hoover Commission's recommendations as proposing abolishment of the General Counsel, unless intent, which never existed, is deliberately read into the Commission's reports. Mr. Hoover's telegram and the Chairman's statement completely refute that.

The task force report [5] on which the Hoover Commission's report is based, while somewhat critical of the type of separation created by the Taft-Hartley Act, at no place recommends the abolition of the General Counsel. Its conclusions are:

> Our staff recommends the creation by Executive order of a council of labor under the chairmanship of the Secretary of Labor and including the General Counsel and other Federal officials concerned with labor problems. The function of the council would be to coordinate Federal labor policy and to advise the President on appropriate action. This represents a compromise between the present independent status of the General Counsel and his subordination to a department head.
>
> Others have strongly urged that the office should again be placed under the Board. To this the objection is made that the prosecuting functions should be separate from the hearing of complaints. But as has already been indicated, only in part are his present duties general prosecution; some parts are administrative and parts are a species of rule or policy making. It may be that the administrative and policy-making functions could be subordinated more clearly to the Board's control while still maintaining an adequate separation of the truly prosecuting activities.

THE PLAN IS CONTRARY TO THE PURPOSES OF THE REORGANIZATION ACT OF 1949

The Reorganization Act of 1949, pursuant to which plan No. 12 has been submitted, was enacted, among other reasons, to permit the effective carrying out of the recommendations of the Hoover Commission. It was intended that plans submitted by the President would have as their primary purpose the achievement of economy, efficiency and improved management in the executive branch of the Government. Plan No. 12 furthers none of these purposes.

It has been established beyond successful refutation that the plan goes beyond recommendations of the Hoover Commission. It has not been demonstrated to the committee, through hearings, or otherwise, that the plan will bring about any substantial saving of money. The President states that the taking effect of the plan "may not in itself result in substantial immediate savings." He anticipates, however, that "many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would otherwise be necessary." This is vague language. The testimony of the Bureau of the Budget and the National Labor Relations Board was equally vague on this point. Neither pointed to any group of employees or even one employee whose services would be made unnecessary if the plan were adopted. The Board's Chairman suggested a possible saving on the expectancy that the Board would be more selective in the type of cases it permitted to be heard. He stated that the General Counsel had processed cases where the business of the employer was so local in char-

[5] Task Force Report on Regulatcry Commissions. (Appendix N to Hoover Commission reports.)

acter that the Board dismissed them on the ground that it would not effectuate the policies of the act to take jurisdiction. Some might agree that a limitation of the extension of jurisdiction of the Board to local enterprises is a desirable move, but selectivity of cases may also become a dangerous power. An employer-minded Board might seek to nullify certain of the act's restrictions upon employer activity, or a Board, biased in favor of labor, might refuse to process certain types of cases against unions.

The type of efficiency which might be accomplished by the plan could be equally harmful. Since every employee, whether he be a part of the investigative, or prosecuting or judicial function of the Board, would be directly responsible to the Board or its Chairman (under sec. 1) it is inevitable that the philosophy of the Board or its Chairman would become the philosophy of all employees. It is obvious that disagreement would indeed be rare and the alleged efficiency which would be obtained would be contrary to the American concept of government which is founded upon separation of powers in order that each may be a check and balance on another. We believe such efficiency would be particularly bad in such a vital area as labor-management relations.

The Hoover Commission task force report on the Board devoted considerable attention to the delay in case handling. It found:

> The chief bottleneck is the Board, rather than the General Counsel or any of his operational divisions, but that is not due to inefficiency or dilatoriness of the members of the Board.

The Chairman of the Board in testifying before the committee depreciated the size of the present backlog of undecided cases. However, it cannot be denied that the additional burden of case handling at the initial stage plus the personnel problems created by an additional 800 employees, transferred under the plan, would vastly increase the burden on the Board and the Chairman, and could scarcely be expected to promote efficiency of operations at any stage—initial or final. Case handling at the initial stage did in the past and will again in the future involve the Board or its Chairman in pressures and influences brought by litigants desiring either that a case be processed or dismissed. This would be not only time consuming but also contrary to accepted American judicial practice.

Some witnesses heard by the committee expressed strong doubts as to the legality of plan No. 12. Section 5 (a) (4) of the Reorganization Act of 1949, limits the powers of the President with respect to reorganizations by providing that no such plan shall have the effect of—

> authorizing any agency to exercise any function which is not expressly authorized by law at the time the plan is transmitted to the Congress.

One of the functions of the General Counsel under present law is that of issuance and prosecution of complaints independently of the Board. Issuance and prosecution of complaints by a quasi-judicial tribunal (NLRB) which will subsequently determine them is not authorized by existing law. If this function is transferred to the Board, or its Chairman, obviously it cannot exercise this function independently of itself. No firm decision upon the legality of plan No. 12 has been reached, but the committee is inclined to agree with the General Counsel that if the plan is accepted by Congress con-

siderable litigation can be anticipated on the point. Most unsuccessful litigants who have been proceeded against under a complaint issued by a judicial agency will, no doubt, seek review on the ground that they have not been accorded due process. A 2-year period of confusion may well result during which labor-management relations would be in a state of chaos.

The separation of the prosecution from the judicial functions of the Board is substantive law. It is substantive law recently established, after long debate and over a Presidential veto, by overwhelming majorities in both Houses of Congress. If that policy of Congress is to be reversed it should be done by way of ordinary legislative procedure.

THE PLAN IS VAGUE AS TO DISPOSITION OF IMPORTANT FUNCTIONS OF THE GENERAL COUNSEL

Section 1 of the plan transfers to the Chairman of the Board the "executive and administrative functions" of the General Counsel (and the Board) including his (and their) function with respect to—

(1) the appointment and supervision of personnel, (2) the distribution of business among personnel and among administrative units, and (3) the use and expenditure of funds.

Section 3 of the plan transfers to the Board all functions of the General Counsel not transferred to the Chairman by section 1.

Section 3 (d) of the Taft-Hartley Act provides the General Counsel shall—

exercise general supervision over all attorneys employed by the Board (other than trial examiners and legal assistants to Board members) and over the officers and employees in the regional offices. He shall have final authority, on behalf of the Board, in respect of the investigation of charges and issuance of complaints under section 10, and in respect of the prosecution of such complaints before the Board.

Witnesses appearing before the committee were not in agreement as to whether the most important function of the General Counsel namely, the investigation of charges and issuance of complaints, would be transferred to the Chairman or to the Board;[6] nor is the committee in agreement as to the effect of the plan in this regard. It cannot be denied that the action taken in the issuance of complaints has many of the attributes of what is generally considered to be an "executive" function.

Bouvier's Law Dictionary (third revision) defines "Executive" as "That power in the government which causes the laws to be executed and obeyed." The same work defines "executive power" as that "authority exercised by that department of government which is charged with the administration or execution of the laws as distinguished from the legislative and judicial functions." Funk & Wagnalls New Standard Dictionary defines "executive act" as "the voluntary act which follows decision or choice, and which sets into action the means adapted to execute the decision or the chosen plan * * *."

The inclusion of three specifically identified functions listed in section 1 of the plan among the functions transferred to the Chairman

[6] See testimony of Senator Robert A. Taft and Attorney A. E. Wilson, of Atlanta, Ga., holding that the transfer was to the Chairman, and testimony of Frederick J. Lawton, Director, Bureau of the Budget, and Paul M. Herzog, Chairman of the Board, that the transfer was to the Board (hearings upon Reorganization Plan No. 12 of 1950, Senate Committee on Expenditures in the Executive Departments, April 4, 5, and 6, 1950).

may be interpreted to include all of the present functions of the General Counsel, except that of investigation of charges and issuance of complaints. It may be argued with equal force, however, that the function of issuance of complaints may necessarily fall within the broad grant of section 1 because that section is obviously intended (through the specific inclusion of certain functions) to convey some powers other than the three specifically set forth.

The United States Court of Appeals for the First Circuit in the case of *Lincourt* v. *National Labor Relations Board* (170 Fed. 2d 306 (Oct. 19, 1948)), held that the issuance of a complant under section 10 of the National Labor Relations Act was an administrative matter. That case involved a petition for review of a determination by the General Counsel of the National Labor Relations Board to refuse to issue a complaint. The court said—

> (2, 3) The issuance of a complaint under section 10 of the act is a matter of administrative discretion. Under the National Labor Relations Act in its original form (49 Stat. 449), it was clear that the refusal of the Board to issue a complaint was not reviewable in the circuit courts of appeals. See *Jacobsen* v. *N. L. R. B.* (3 Cir., 1941, 120 F. 2d 96, 100). The Labor-Management Relations Act of 1947 has effected no change in the jurisdictional language of section 10 now relevant, though in other particulars it made substantial amendments of the National Labor Relations Act. *Wilke* v. *N. L. R. B.* (4 Cir., July 7, 1948, No. 5754).
>
> (4) It is to be noted that the Labor-Management Relations Act of 1947 introduced into section 3 of the National Labor Relations Act a new subsection (d) (29 U. S. C. A., sec. 153 (d)), which took away from the Board the administrative power to issue complaints under section 10. As the act now reads, the General Counsel of the Board "shall have final authority, on behalf of the Board, in respect of the investigation of charges and issuance of complaints under section 10". Such administrative determinations by the General Counsel are not denominated "orders" in the act, and the act makes no provision for their review. That the Board itself no longer has power to make such determinations only serves to emphasize, what is otherwise abundantly clear, that there has in this case been no "final order of the Board" within the meaning of section 10 (f).

While we accord great weight to the opinion of the Bureau of the Budget which must have been consulted in the drafting of plan No. 12, we are perplexed by the failure of the plan to categorically state to whom the most important function is transferred. The prominence given to this function in the Taft-Hartley Act, the publicity given to it ever since the passage of that act and the existing intra-Board controversy over it, would seem to warrant more than an "implied" transfer among the residual powers transferred by section 3.

Following his testimony before the committee at which the question was raised as to the legal interpretation of the proposed transfer of all, or virtually all, of the functions of the General Counsel to the Chairman (thus maintaining the existing concentration of powers in a single individual), the Director of the Bureau of the Budget requested the Attorney General to submit further views on this point.

In response the Attorney General advised the Director of the Bureau of the Budget on April 13, 1950, as follows:

> * * * In the language of section 1 (a) of the plan it is provided that the executive and administrative functions of the Board and of the General Counsel are transferred to the Chairman of the Board, including their functions with respect to (1) the appointment and supervision of personnel, (2) the distribution of business among personnel and among administrative units, and (3) the use and expenditure of funds. Section 1 (b) (1) provides that the Chairman, in carrying out those executive and administrative functions, shall be governed by

the general policies of the Board. Section 3 states that "all functions of the General Counsel of the Board not transferred by the provisions of section 1 of this reorganization plan are hereby transferred to the Board."

The plan must be read in the light of the message of the President covering Reorganization Plans Nos. 1 to 13 of 1950. That message stated:

"Accordingly, within the limitations explained in later paragraphs, each of these plans vests in the Chairman, in each case, responsibility for appointment and supervision of personnel employed under the Commission, for distribution of business among such personnel and among administrative units of the Commission, and for the use and expenditure of funds.

"In the conduct of all of these activities, the Chairman will be bound by the general policies established by the Commission and by its regulatory decisions, findings, and determinations. In addition, the right is specifically reserved to the Commission to revise budget estimates and determine the distribution of funds among the major programs and purposes of the agency. The appointment of the heads of major administrative units under the Commission is subject to approval of the Commission, and each Commissioner retains responsibility for actions affecting personnel employed regularly and full time in his immediate office.

* * * * * * *

"The fact that under these reorganization plans the commissions retain all substantive responsibilities deserves special emphasis. The plans only eliminate multiheaded supervision of internal administrative functioning. The commissions retain policy control over administrative activities since these are subject to the general policies and regulatory decisions, findings, and determinations of the commissions."

It is clear that the plan transfers from the General Counsel and the Board to the Chairman housekeeping functions and related functions of a supervisory nature. It is equally clear that it is the purpose of the plan as described in the afore-mentioned message of the President to establish between the Board and the Chairman the "identical relationship" as that "provided for the other regulatory agencies," which means that substantive decisions are the responsibility of the Board as a whole and not of the Chairman individually.

It will be noted that the Attorney General's opinion is based largely on the message of the President covering Reorganization Plans 1 to 13 of 1950, and does not direct itself to specific provisions of plan No. 12. This is the first time that it has come to the attention of the committee that administrative functions are broken down legally into substantive administrative functions as distinguished from "internal" or "housekeeping" functions. Even assuming that the opinion of the Attorney General is correct law, it in no way clarifies the point at issue since the language of Reorganization Plan No. 12 makes no distinction between substantive administrative functions as distinguished from internal administrative functions.

It should be noted that the power given to the Chairman of selection of personnel will, as a practical matter, permit him to exercise great powers over the issuance of complaints even if the grant of that function is to the Board. Regional office staffs, reviewing staffs in Washington, and others who would be appointed by the Chairman would be directly responsible to him. It is true that the Chairman's appointment of key personnel is subject to approval of the other Board members, just as certain Presidential appointments are subject to the approval of the Senate, but the power of original selection is the all-important one.

If the power to investigate charges and issue complaints is transferred to the Chairman who in addition has the function of passing judgment upon those same complaints, the plan, indeed, creates a

monstrosity. The fact that no measure of agreement can be reached upon this vital issue, alone should preclude favorable consideration by the Senate. The very vagueness of plan No. 12 justifies its disapproval.

THE PLAN DOES NOT REMEDY DEFICIENCIES IN PRESENT ACT

Conflicting interpretations of the jurisdiction of the Board over small business is given as a major reason for abolition of the independent General Counsel. Witnesses stated that the General Counsel has asserted jurisdiction over many small enterprises thereby subjecting them to litigation only to have the matter dismissed when it finally reached the Board for decision. It is difficult to see how adoption of the plan would contribute much to a solution of this problem. The General Counsel has furnished the committee with a compilation of cases on jurisdiction. They definitely establish that the Board itself has no definite policy with respect to what businesses it holds to be covered by the act. The decisions have been so inconsistent that no small-business man could possibly determine whether his business is covered. Without attempting to solve a problem which comes under jurisdiction of another committee of the Senate, this committee believes that the solution lies in the establishment by Congress of definite limits to the Board's jurisdiction or in provision for a means of determining jurisdiction at the initial stage.

Some proponents of the plan insist that the absence of a right of appeal from the General Counsel's refusal to issue complaint places too much power in one man. While no evidence of abuse of this power was presented to the committee, the committee agreed that a proper standing committee of the Senate might well consider the advisability of amending the existing law, by providing for an appeal to the courts. It should be borne in mind that if the plan is adopted there would be no appeal from the refusal of the Board or its Chairman to issue a complaint.

Great stress is laid on the fact that the Taft-Hartley Act provides a separation which does not exist with respect to eight other so-called regulatory agencies. This contention was debated at length when the Taft-Hartley Act was under consideration in 1947. The vote at that time demonstrated conclusively that Congress believed there was greater need for separation in the field of labor management than in the subjects considered by the other agencies. The record of the recent hearings points out the vast differences between the functions of the National Labor Relations Board and the functions of other regulatory agencies. Nothing has transpired since the Taft-Hartley Act to change the Congress' judgment on that issue.

The proponents of the plan point out that the failure of the present law to definitely establish the limits on the functions of the General Counsel and the Board, respectively, has resulted in serious disagreements. Here again, the answer appears to be in corrective substantive legislation—not this reorganization plan.

[H. Doc. 516, 81st Cong., 2d sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING REORGANIZATION PLAN NO. 12 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE NATIONAL LABOR RELATIONS BOARD

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 12 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the National Labor Relations Board. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 12 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 12 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

NATIONAL LABOR RELATIONS BOARD

SECTION 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the National Labor Relations Board, hereinafter referred to as the Board, and from the General Counsel of the Board, to the Chairman of the Board, hereinafter referred to as the Chairman, the executive and administrative functions of the Board and of the General Counsel, including their functions with respect to (1) the appointment and supervision of personnel, (2) the distribution of business among personnel and among administrative units, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Board shall be subject to the approval of the Board.

(3) Personnel employed regularly and full time in the immediate offices of members of the Board other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Board its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

SEC. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

SEC. 3. *Transfer of functions to Board.*—All functions of the General Counsel of the Board not transferred by the provisions of section 1 of this reorganization plan are hereby transferred to the Board. The office of such General Counsel (provided for in section 3 (d) of the National Labor Relations Act, as amended, 29 U. S. C. 153 (d)) is hereby abolished.

MINORITY VIEWS OF SENATORS HUMPHREY, LEAHY, BENTON, AND IVES.

Summary and Conclusions

Reorganization Plan 12 submitted by the President to the Congress transfers the functions of the independent General Counsel of the National Labor Relations Board to the five-member Board. This is one of the many plans submitted to achieve the purposes of the Reorganization Act of 1949.

We support plan 12 as a perfectly valid program for the following reasons stated at this point in summary form but which are fully documented in the body of this report.

1. The plan conforms to the pattern of good organization recommended for regulatory commissions generally by the Hoover Commission.
2. It conforms to the will of the Senate in passing favorably on proposed amendments to the Taft-Hartley law, last year.
3. It eliminates a presently confusing and inefficient organization recognized even by those opposed to the plan.
4. It eliminates the existing conflict of policy interpretation within a single executive agency which hampers labor and management in their good faith attempts to comply with the law.
5. It provides a more efficient and economical organization.
6. Plan 12 preserves all the safeguards essential to due process and provides all additional safeguards in substituting a commission as against one-man determination in certain decisions importantly affecting private and public rights.
7. Plan 12 establishes a clear and direct line of authority and responsibility—a primary essential to good organization and management according to the Hoover Commission.
8. Plan 12 makes possible a sound and constructive treatment of organization without involvement in the highly controversial substantative issues in the Taft-Hartley Act.

We think it worth while, too, to call attention to several surrounding factors that reinforce the validity of our position.

1. As can be easily seen, the signers of this report are not one on the merits of the Taft-Hartley law as such. But they are one, irrespective of their differing viewpoints, on the need for the enactment of plan 12. This should dispose of the convenient argument opponents have made that plan 12 is a rearguard assault on the Taft-Hartley law.

2. We stress the unanimous character of the five NLRB members' opposition to the present independent status of the General Counsel. This unanimity, it is significant to note, exists in spite of the fact that some Board members have tended to agree, decisionwise, more frequently with the General Counsel's policies than have others.

3. Finally, we stress with all the earnestness that we can command, that the existing division of authority in the administration of the Taft-Hartley Act is intrinsically bad. It makes no difference who the incumbent of the General Counsel's office happens to be or who the Board members are, for so long as division of authority persists, the conflict and confusion will persist.

Background

The Labor-Management Relations Act, better known as the Taft-Hartley law, succeeded the Wagner Act as the most significant legislation affecting labor-management relations. The Wagner Act set up a three-man board (1) to prevent specified unfair labor practices by employers and (2) to conduct elections among employees in order to determine representation, for collective-bargaining purposes. The separation of functions as between the investigative and the decision making was effected by internal procedure and regulations, later made mandatory by the Administrative Procedure Act of 1946.

In 1947, the Wagner Act was amended drastically by the Taft-Hartley law. Specified unfair labor practices by labor organizations are banned as well as unfair practices by employers. Additional types of employee elections are provided for.

The General Counsel is set up as an independent officer in the National Labor Relations Board with supervision over all attorneys except legal assistants to Board members and with final unreviewable authority to issue unfair labor practice complaints on behalf of the Board. The five-man Board set up under the 1947 act has sole control over representation elections but its function with respect to unfair labor practice complaints is limited to issuing decisions on records made after hearing upon complaints issued by the General Counsel. There is no recourse to the Board in respect of charges on which the General Counsel refuses to issue complaints.

The Board's decisions and orders are not self-enforcing and carry no sanctions until after a decree is issued by a Federal circuit court of appeals ordering compliance. The courts are completely free to reverse any Board interpretation of law and are likewise free to reverse any Board finding of fact unless it is supported by the substantial weight of the evidence. Respondents are subject to contempt of court only if they fail to comply with the court's decree.

There are three broad issues that have been raised about plan 12. The issues can be boiled down to legality, efficiency, and fair treatment. The overwhelming weight of the evidence leads us to resolve these issues in favor of plan 12 and urge the Senate to defeat Senate Resolution 248 which rejects plan 12.

I. *Legality.*—Plan 12 is completely in accord with the Reorganization Act of 1949.

II. *Efficiency.*—Plan 12 will eliminate the duplication and confusion which now spring from the existence of an independent General Counsel.

III. *Fair treatment.*—Plan 12 will assure a maximum degree of fair treatment for the parties affected by the National Labor Relations Act.

I. PLAN 12 IS LEGAL

First, the issue of legality. Plan 12 is a perfectly proper reorganization program for the National Labor Relations Board and is wholly in accord with the provisions of the Reorganization Act of 1949.

The record supports the following generalizations on the legality of plan 12.

1. Plan 12 simply transfers functions within an agency in order to establish for the NLRB an organizational pattern consistent with that of other regulatory agencies.
2. There is a sizable list of such actions under the Reorganization Act which has already been approved by the Congress.
3. Plan 12 does not alter by one iota the responsibilities and duties of employees, unions, and management or the responsibilities of the Government.

A. The Attorney General's opinion

In view of certain testimony before the Senate Committee on Expenditures, Budget Director Lawton requested clarification from Attorney General McGrath as to whether:

> Reorganization Plan No. 12 destroys the separation of powers provided in legislation and therefore exceeds the authority granted the President in Reorganization Act of 1949. From this it is reasoned congressional acceptance of the plan will lead to extensive litigation on legality, that if there is a decision of the Supreme Court that the plan exceeds the authority granted in the Reorganization Act of 1949, this will ultimately produce chaos.

The Attorney General characterized such testimony as being without merit and stated that plan 12 simply transfers functions from the General Counsel to the five-member Board—an action completely consistent with the provisions of the Reorganization Act.

> The point raised above is an attack upon the basic authority of the President under the Reorganization Act of 1949 and is, in my view, without merit. The very purpose of the Congress in passing the Reorganization Act was to authorize the President to transfer functions between agencies and within agencies when, after investigation, he finds that such a transfer will accomplish one or more of the purposes enumerated in section 2 (a).
>
> As pointed out by the President in his message to the Congress covering Reorganization Plans Nos. 1 to 13 of 1950, it is the purpose of Reorganization Plan No. 12 to provide for the National Labor Relations Board "an organizational pattern consistent with that established for the other regulatory agencies." To put it another way, the President has by Reorganization Plan No. 12 returned to the National Labor Relations Board functions which were taken from the Board and placed in the General Counsel by the provisions of the Labor-Management Relations Act, 1947. There is no prohibition against such action in the Reorganization Act of 1949 and there is no constitutional provision of which I am aware that requires that the functions placed in the General Counsel by the Labor-Management Relations Act, 1947, must remain there. As I see it, congressional acceptance of the plan will support this view. (Attorney General McGrath to Budget Director Lawton, letter, April 13, 1950. Copy to Senator McClellan.)

B. Bureau of the Budget testimony

The testimony of Mr. Frederick J. Lawton, Assistant Director of the Bureau of the Budget, before our committee is equally compelling on the point that plan 12 transfers functions: It does not modify or create new functions. He said:

> With reference to the President's authority under the Reorganization Act of 1949, I should like to point out that plan 12 is, in my judgment, completely consistent with the provisions of that act. Plan 12 does not modify functions or

create functions. It merely transfers functions and abolishes an office. Section 3 (1) of the 1949 act authorizes the transfer of functions. Section 3 (6) authorizes the abolition of an office whose functions have been eliminated by transfer.

In our testimony on this plan before the House committee we submitted a long list of offices which had been abolished in previous reorganization plans. It is true that plan 12 modifies the law but any reorganization plan, in modifying organizational arrangements prescribed in statute, does this (Senate hearings, p. 99).[1]

The following colloquy between Senator Schoeppel and Mr. Lawton fortifies further this question of the legality of transferring the functions of the General Counsel to the Board as such, even though the General Counsel is set up by statute.

Senator SCHOEPPEL. You think that the Reorganization Act is broad enough to permit the President to abolish one separate branch that the Congress made a distinct entity?

Mr. LAWTON. I do so, Senator. Unless that were true there would be no necessity for you enacting the Reorganization Act. A Reorganization Act is enacted only to permit the transfer of functions that Congress has established by law. If they are administrative actions the Executive could change them himself without any necessity for a Reorganization Act at all (Senate hearings, p. 101).

C. Senator Taft's testimony

Senator Taft, who opposes plan 12 and has introduced the resolution calling for its rejection, concedes the legality of plan 12 under the Reorganization Act in the following language:

I don't think the plan changes any power; it just transfers it from one fellow to another.

Later Senator Taft went on to say:

Subsection 4 (of the Reorganization Act) only forbids the creation of functions not already authorized by the law. In other words, you cannot authorize a new function—that is about all that subsection 4 says.

Although Senator Taft disagreed with plan 12 because he claimed it involved a change in substantive law, he did say:

But I do not frankly, at the moment, see any legal prohibition (Senate hearings, p. 21). [Emphasis added.]

General Counsel Denham stated as "a simple, irrefutable fact" and "without the slightest doubt in [his] mind" that the issue of legality of plan 12 "will be raised in every United States Circuit Court of Appeals and in the Supreme Court." He prophesied "utter chaos would prevail" if the Supreme Court should invalidate plan 12. At the same time, Mr. Denham refused to commit himself as to the legality of plan 12 (Senate hearings, p. 195).

This cannot be taken seriously. Indeed it is the kind of intimidation which is used against all legislation on which there are differences of opinion.

The facts are that plan 12 differs not at all in essence from the previous reorganization plans which Congress has approved. The threat of extensive litigation is purely a diversionary action to obstruct consideration of plan 12 on its merits.

Some opponents of plan 12 raise a variation on the illegality theme. They say that the plan runs counter to the intent of Congress in ordering the separation of powers in the Taft-Hartley Act. What are the facts?

[1] The full citation is Reorganization Plan No. 12 of 1950, hearings before the Committee on Expenditures in the Executive Departments, U. S. Senate, 81st Cong., 2d sess., on S. Res. 248, April 4, 5, and 6, 1950, hereafter referred to as Senate hearings.

1. Putting plan 12 into effect requires action by Congress; the President can't do it himself. There is no reason why Congress is barred from profiting by experience and transferring the functions of the General Counsel to the Board.

2. The Senate never approved the concept of an independent General Counsel as part of its own legislation. It came to the Senate in 1947 as part of a conference report which could not be amended.

3. Indeed, the Senate approved its own legislation last year specifically eliminating the independent General Counsel (Senate hearings, p. 140). The Senate is clearly on record supporting the idea of a unified administration in the National Labor Relations Board (S. 249).

In short, plan 12 conforms to the letter and the intent of the Reorganization Act.

II. PLAN 12 WILL PROMOTE EFFICIENCY AND ECONOMY

Plan 12 will make for more efficient administration because first it unifies responsibility for determination of policy and administration in the five-member Board, and second, it gives the Chairman of the Board responsibility for supervising the housekeeping and day-to-day operating functions.

A. *Present arrangement is inefficient*

The extent to which efficiency will be improved is revealed by the ways in which the present bisection of authority between the Board and the General Counsel has made for inefficient and uneconomical procedures. The overwhelming weight of the evidence presented before this committee upholds the following generalizations about the inefficiency of the existing doubleheaded arrangement.

1. There has been a diffusion of responsibility.

2. The Board has the authority to appoint certain major officials but their work is supervised by the General Counsel.

3. The Board is responsible for certain provisions of the law but the actual performance is vested in a staff supervised by the General Counsel.

4. The interested public is confronted by a situation in which two arms of the same agency propound conflicting views.

5. Cases which should not be instituted if Board decisions are followed are nevertheless instituted by the General Counsel.

6. Many more cases run the full gamut of Board procedure than are necessary to assure fair and efficient treatment.

7. The incumbent General Counsel early in the life of the act recognized the "fantastic" and "absurd" potential of the separation of authority.

These inefficiencies, it is important to underscore, are not the product of conflicting personalities but are inherent in the whole idea of an independent General Counsel separate and apart from the Board.

1. *Task force report.*—The Task Force on Independent Regulatory Commissions [2] of the Hoover Commission, directed by Mr. Owen D. Young, distinguished American industrialist, and Prof. Robert Bowie

[2] The full citation is: Task Force Report on Regulatory Commissions [appendix N], prepared for the Commission on Organization of the Executive Branch of the Government, January 1949. Hereafter referred to as task force report.

of the Harvard Law School, is unequivocal on the inefficiency of the present arrangement. The task force report said:

> The existence of such an office (i. e., the General Counsel) independent both of the Federal department structure and of the Board marks a departure from previous administrative practice. If permitted to set a pattern for future Government organization it may lead to a diffusion of responsibility.
> * * * but the administrative position of the General Counsel is also anomalous, thus the field offices under his supervision are engaged partly in representation work which is the direct responsibility of the Board, and partly in investigating, issuing, and prosecuting complaints on which the General Counsel has final authority. Under the act the Board has the authority to appoint the regional director and other employees.
> * * * our conclusion is that the present position of the General Counsel is an unstable one (Senate hearings, p. 6).

A reading of the task force report fails to reveal one reference or allusion which can even remotely be construed as justifying the existence of an independent General Counsel on any ground at all.

2. *Mr. Lawton's testimony.*—Mr. Lawton's testimony on the cases of inefficiency which develop in this dual structure are revealing. The central theme which emerges is this: Certain responsibilities are vested in the Board but the performance of these responsibilities is lodged in personnel supervised by the General Counsel.

> The several defects in the present organization of the NLRB deserve careful consideration. Under existing law the General Counsel is independent of the Board even though an office within the Board organization. Under existing law various responsibilities are vested in the Board but the actual performance of these responsibilities is largely centered in staff under the supervision of the independent General Counsel.
> For example: Representation cases are in all respects a responsibility of the Board yet these representation cases are largely handled by the field staff and the law requires that the field staff shall be under the supervision of the General Counsel. Likewise, assuring compliance with Board decisions and orders is a matter of immediate concern to the Board yet the follow up for compliance must necessarily be handled by field staff who are under the supervision of the General Counsel and the General Counsel can determine the amount of time and effort to be given to this follow up. Enforcement of Board decisions further illustrates the present confusion. Board decisions can be enforced only by petitioning the courts. But this requires the services of attorneys. However, the law provides that all attorneys except trial examiners and legal assistants shall be under the supervision of the General Counsel.
> The Administrative Division presents still another illustration of the present confusion. The Board in 1947 gave the General Counsel supervision of the Administrative Division which serves both the Board and the General Counsel. In cases of conflict of administrative authority—as, for example, on the issue of whether the Board has any power to confirm certain key appointments by the General Counsel—the Administrative Division is caught right in the middle. Such conflict and confusion is bound to disturb efficient operations. All of these defects in organization which result from divided responsibility would be eliminated by plan No. 12.
> As a result of the presently confused and divided organizations, the staff of the Board, labor, management and the general public had been confronted with conflicting interpretations of policy within a single agency of the executive branch. This inevitably leads to confusion among staff, the affected private interests, and the general public. Confusion of staff inevitably has an adverse effect upon efficiency. Even more serious is the confusion of labor and management who should be entitled to consistency and clarity of policy interpretation from an agency of the executive branch.
> This confusion and conflict lead to the institution of cases which would not otherwise be initiated if responsibility were in a single agency as in the case of other regulatory Commissions. The initiation of such cases must inevitably lead to a substantial expenditure of Federal funds in the investigation, preparation, and prosecution of such cases. Thus, the present organization is uneconomical as well as confusing and inefficient (Senate hearings, pp. 95–97).

3. *Board testimony.*—Chairman Paul M. Herzog, speaking for a unanimous Board and reflecting their knowledge of detailed Board operations, has given us additional concrete evidence of the inefficiency of the dual arrangement:

> Under the present dispensation a great many more cases actually do go to complaint and hearing than did during the period when we had a single administration of the statute. During the last year of the Wagner Act about 7½ percent of the unfair labor practice cases went to hearing; over the entire 12 years it was 9½ percent * * *. It is the ones that go to hearing * * * that are the expensive ones. During the last 2½ years the figure of cases going to hearings is 14.1 percent which is a great many more. Let me say this, in fairness, however, if consolidations are considered, the figure drops to 11.6 percent. (Senate hearings, p. 142.)

When comparison is made with types of cases which are common to both the Wagner Act and the Taft-Hartley law, the Board's statistics reveal that even there a much larger proportion of unfair labor practice cases against employers has gone to hearings under the Taft-Hartley Act than was the case under the Wagner Act with its undivided authority.

> * * * a great many more cases have gone to hearing even where they are of exactly the same type that were before the Board in the Wagner Act. In other words, it is only to be expected that more cases arising under section 8 (b), union unfair labor practices, would go to hearing in the first few years of the Taft-Hartley Act, and it is the duty of the General Counsel, where he is in charge, to go ahead and press them to hearing. I would not criticize him for that. But, if you look at the figures on unfair labor practices against employers under section 8 (a), which every one knows is not very different from the old section in the Wagner Act, 13.3 percent of those cases have gone to complaint and hearing, almost twice as many as went to complaint and hearing during the last year of the Wagner Act (Senate hearings, p. 143).

The importance of these data cannot be overstressed. In order to appreciate fully the significance of this testimony it is important to know that, if any large proportion of unfair labor practice cases filed in the regional offices were to go to hearing before the Board, it would be inordinately expensive and result in substantial delays. What Mr. Herzog is saying, then, is that under the present independent status of the General Counsel a larger percentage of cases have to go to hearings than before—a smaller percentage are settled or adjusted before hearings than before.

These data show that the present dual structure is responsible for more adjudication than is required to get effective and fair administration of public policy. It means, too, that there is a singular inability of the Regional staffs and the General Counsel to translate the decisions of the NLRB into action at the investigation and prosecution stages, in order to reduce the number of cases which have to run the full gamut of Board processes. This is wasteful and results in failure to get speedy adjudication of disputes.

But that is not the worst of it. The distinctive feature of the regulatory commission is that, as the Attorney General's Committee put it, "even where formal proceedings are fully available, informal procedures constitute the vast bulk of administrative adjudication and are truly the lifeblood of the administrative process. No study of administrative procedure can be adequate if it fails to recognize this fact and focus attention upon improvement at these stages" (Administrative Procedure in Government Agencies, Report of Attorney General's Committee, 1941, p. 35).

The tendency under the present two-headed structure, as the statistics clearly indicate, is away from informal settlement and expeditious resolution of conflict and toward formal litigation. Mr. Styles, the newest Board member, speaking from his extensive experience as a field employee of the Board, said on this point:

> One of the great weaknesses of the General Counsel concept has been the difficulty of administration at the regional level, because people wanted to litigate; people said, "This is a statute under which you prosecute. Now, get out there and prosecute."
>
> The whole approach of the Board in the past, of all its regional offices, was "Let us get the public," the employer, back in those days, "to comply with the law. Let us talk him into complying with it. Let us settle these cases if we can."
>
> I noticed in my own regional office that, the minute the new act was passed, there was a tendency on the part of everyone, not confined only to the attorneys, * * * but the field examiners themselves, the people who really do the work of the Board, to say, "Let us litigate."
>
> They dropped their settlement efforts to a large degree.
>
> We had to make a concentrated effort to get those fellows back into the idea of, "Look; why try all these cases; let us go ahead to try and get settlement" (Senate hearings, p. 228).

What we have been stressing comes to this: The broad purposes of an act regulating labor relations can be effectively achieved only if settlements are made at the earlier stages. When a trend develops, as it has now, for the parties to turn more and more to adjudication in Washington, then we have a situation which is both inefficient and destructive of sound labor-management-government relations.

4. General Counsel's views.—Mr. Denham, the General Counsel, himself was fully aware of the potentialities of the dual structure. In September of 1947, speaking before the American Bar Association just a few months after the passage of the Taft-Hartley Act, he stated:

> There are bare spots in the picture and there are spots where a protracted division of opinion between the Board and the General Counsel could lead to fantastic results. Particularly is this true in matters pertaining to the jurisdictional features of the law. The Board on appeals in representation cases may find jurisdiction and entertain a petition. On the same facts the General Counsel may refuse to issue a complaint for what he conceives to be lack of jurisdiction. In neither decision will a direct appeal lie. It is an absurd situation but it can happen in the present state of the law (Senate hearings, p. 207).

The Board early anticipated the potentialities of this "absurd situation" and delegated certain additional powers to the General Counsel, with respect to which the act was either unclear or which it had vested in the Board. If the Board had not delegated these powers, one of the "fantastic" consequences would conceivably have been the establishment of two separate sets of administrative staffs and two sets of field personnel, one for the Board and one for the General Counsel. But, even with the Board's delegation, the situation proved unmanageable; and the Board recently had to modify its delegation on one point by requiring the General Counsel to clear appointments of regional directors with the Board, so as to protect its interest in field supervision of representation cases (Senate hearings, p. 125). The General Counsel has publicly announced that he will refuse to comply with the modification (NLRB release No. 294, March 2, 1950).

B. Issues in confusion

The most conspicuous sources of confusion lie in the conflicting interpretations given to (1) the coverage of the act and (2) how decisions of the Board shall be enforced.

1. *Confusion in jurisdiction.* This dual administration of one law has reflected itself in a conflict over the extent of the act's jurisdiction. It is not oversimplifying the issues in the conflict to say that the General Counsel believes that there is virtually no limit to the Board's jurisdiction; that the Federal Government must go into the corner drug store and the corner grocery store. The following colloquy between Mr. Hoffman, chairman of an Eightieth Congress House subcommittee, and Mr. Denham makes the latter's position on jurisdiction clear:

The CHAIRMAN. There is no business, then, that you would not have jurisdiction over?

Mr. DENHAM. I can conceive very few businesses over which there is not at least technical jurisdiction (investigation to ascertain scope of interpretation by General Counsel of National Labor Relations Board of the term "affecting commerce," as used in the Labor-Management Relations Act, 1947; hearings, May 7, 1948).

The Board, on the other hand, feels that, even if the act confers such unbridled jurisdiction, the broad purposes of the Taft-Hartley Act will not be served by having the Board penetrate into every nook and cranny of the Nation's economy.

The Board's statement stands unchallenged that:

Beginning early in 1948, the Board made its views on jurisdiction known to the General Counsel and to the interested public by several decisions in representation cases. Time and again the Board refused to entertain a representation proceeding because the nature of the enterprise involved was of an essentially local character or because the actual amount of interstate business was insubstantial. Yet, until September 1949, only 6 months ago, the General Counsel instructed regional office personnel under his supervision to disregard Board precedent, even in representation cases that involved parallel facts. (See exchange of correspondence between the Board and the General Counsel incorporated in the transcript of testimony before the Committee on Labor and Public Welfare, U. S. Senate, 81st Cong., 1st sess., at pp. 138–141 (1949); see also the General Counsel's instructions to the regional staffs, there quoted at p. 175.) (Senate hearings, p. 120.)

A House subcommittee of the Eightieth Congress, chaired by Mr. Hoffman, of Michigan, asserted as one of its findings:

The subcommittee is of the opinion that this new interpretation proposed by the General Counsel of the Board to be placed upon the term "affecting commerce" is not warranted either by the previous history of interpretation and administration of the Wagner Act, by the debates on the bill, or by the terms of the act itself; that such interpretation is not necessary to effectuate the purposes of the act (H. Rept. 2050, 80th Cong., 2d sess., 1948, p. 5).

In raising this question of jurisdiction, it is not our intention to pass judgment on whether the General Counsel is right or whether the Board is right. It is simply to point out that, as Mr. Herzog put it:

The Board does not contend—and, indeed, concedes otherwise—that it has been wholly consistent in its rulings on these difficult questions. Our position is that it is important that the field offices and interested public have one standard to follow rather than two—whatever that standard may be. We contend further that it is essential to efficiency and economy that the world know in advance what standard will be applied in a particular case (Senate hearings, p. 214).

Senator Taft, who is now sponsoring the resolution to reject plan 12, was last year apparently fully aware of the confusion which resulted from the conflict over jurisdiction between the independent General Counsel and the Board members. In June, 1949, he said:

I believe that the amendments which we have suggested are important. Perhaps the most important one is the elimination of the independent General Counsel. The difficulty which arose with the independent General Counsel was

that he took a different view of the jurisdiction of the Board than did the Board itself. He would bring a case which he thought was covered by the act. After a year's litigation the Board would rule that it was not covered by the act. In the last analysis the Board determined the result, but in the meantime, there was confusion. There was difference of opinion. There was difficulty in the separation of powers (Congressional Record, 1949, p. 8750).

Senator Taft's statement was made in connection with his support of an amendment to eliminate the independent office of General Counsel and to restore the original powers of the Board. Surely nothing has happened in the intervening year to reduce that confusion; the contrary is the fact.

2. *Confusion in enforcement.*—An area of conflict between the Board and the General Counsel fraught with even greater danger for intelligent, if not intelligible, administration is that over enforcement of the Board orders in the courts. This statute empowers the Board to enforce its orders, but makes no provision for a legal staff with which to perform the function. Indeed, as we have seen, the legal staff is under the supervision of the General Counsel. Experience shows that the General Counsel has refused to permit his legal staff to enforce the orders in the courts. According to the Board's undenied testimony:

In several cases in which the Board's decision disagreed with the position taken by the General Counsel when he issued a complaint—a result which those advocating separation should be the first to expect—he asserted that courtroom defense of the Board's order by his legal staff would be incompatible with his prosecutory functions and would cause him embarrassment before the courts. In two cases, as a matter of accommodation to him, the Board agreed to relieve him of responsibility for defending its order. But even in one of these, the Haleston Drug case involving the issue of exercise of jurisdiction, the General Counsel has informed the Board officially that he may nevertheless wish to state his contrary views to the circuit court by a brief amicus—in opposition to those of the Board and in support of the very party attacking the Board's order. (The exchange of memoranda between the Board members and the General Counsel on this subject appears in the record of our testimony before the Expenditures Committee of the House on March 23, 1950, p. 123.) *Thus the Government of the United States—indeed, one agency of the United States—would be on both sides of the same case.* [Emphasis added.]

In another case, the Board was compelled to direct the present General Counsel to delete from the brief prepared by his staff of lawyers a statement of the opposing position previously taken by him as an independent policy maker. This statement could only have served to sharpen the challenge to an order issued on behalf of the Federal Government. In still another case, the Board relieved the General Counsel's enforcement staff of the oral argument before the court. But in other instances the Board has found it necessary to insist that the staff under the General Counsel's supervision, and not its own very limited one, defend its orders in the courts.

Judging by recent statements, there is reason to believe that, as more orders with which the present General Counsel disagrees come up for defense before the courts, he will seek time and again to deprive the Board of the free use of the members of the enforcement division staff. Because, as we have already said, personalities are not involved here so far as the Board members are concerned we have no reason to assume, or to suggest to the committee, that some future incumbent of the office would act any differently (Senate hearings, pp. 124–125).

The General Counsel, in justifying his position with respect to this issue of confusion, asserted that—

the Board has continued to ignore section 14 (b) of the act as the Supreme Court has interpreted it, and without regard to the rights of the States to regulate the union shop continues to authorize the execution of such contracts (Senate hearings, p. 198).

Responding to Senator Humphrey's questioning, Mr. Denham said that the Board decision in the Western Electric case "ignored" the

Supreme Court decision in the Algoma Plywood case. Since the latter case involved the Wisconsin Employment Relations Board (the NLRB was not a party to the case), Chairman Herzog requested L. E. Gooding, chairman of the Wisconsin Employment Relations Board, to comment.

Mr. Denham's charge is specifically contradicted by Mr. Gooding, both with respect to the charge that the Board ignored the Supreme Court decision and with respect to the charge that the Board has interpreted—

> 14 (b) without regard to the rights of the States to regulate the union shop.

In the reply to Mr. Herzog, made available to the committee too late for inclusion in the record, Mr. Gooding stated:

> * * * I find nothing in the Western Electric case in conflict with the Supreme Court decision in the case involving the Algoma Plywood Co. and this board. So far as union security agreements between employers and labor organizations in the State of Wisconsin are concerned, we have had no trouble, at least since the agreement between this board and your Board relating to the conduct of union security agreements has been executed.
>
> Footnote 14 in the Western Electric Co. decision seems to me to agree wholly with the position that I took at that time. You state in that footnote, "that any certification which we may issue on the basis of the election directed below is to be construed as certifying only the Federal requirements have been met by the petitioner for purposes of enforcement of the National Labor Relations Act. The question of compliance by the petitioner with State laws regulating the union shop is a question of State law to be determined by State authorities in a State proceeding." The above quotation, it seems to me, is a complete answer to the statement contained in the General Counsel's testimony that the Board "has continued to ignore section 14 (b) of the act as the Supreme Court has interpreted it, and, without regard to the rights of the States to regulate the union shop, continues to authorize the execution of such contracts."

C. *Plan 12 will be more efficient and economical*

It has been clearly demonstrated that the present arrangement is inefficient and expensive. We now direct ourselves to the question of whether plan 12 will remedy these inefficiencies. On this point the testimony presented before the committee buttresses the following conclusions:

1. Only the "housekeeping" and day-to-day operating functions of the General Counsel are transferred to the Chairman. The more important prosecuting and policy-making functions are transferred to the Board.
2. The Hoover Commission report supports vesting of housekeeping and day-to-day operating functions in the chairmen of the regulatory commissions.
3. The task force of the Hoover Commission saw the division of authority as a threat to efficient administration.

1. *General Counsel's authority transferred to the Board as a whole.*—One point must be cleared up at the outset because of certain misconceptions which have been permitted to spread. Plan 12 does not provide for the transfer of all or even the major part of the General Counsel's functions to the Chairman of the Board. The plan is explicit and direct on this point.

(*a*) Attorney General's opinion: Budget Director Lawton requested the Attorney General to clarify the issue raised at the Senate committee hearings that—

> Plan No. 12 transfers all or virtually all of the functions of the General Counsel of the Board to the Chairman of the National Labor Relations Board, thus maintaining the existing concentration of powers in a single individual.

The Attorney General characterized this view as being "without merit":

In the language of section 1 (a) of the plan it is provided that the executive and administrative functions of the Board and of the General Counsel are transferred to the Chairman of the Board, including their functions with respect to (1) the appointment and supervision of personnel, (2) the distribution of business among personnel and among administrative units, and (3) the use and expenditure of funds. Section 1 (b) (1) provides that the Chairman, in carrying out those executive and administrative functions, shall be governed by the general policies of the Board. *Section 3 states that "all functions of the General Counsel of the Board not transferred by the provisions of section 1 of this reorganization plan are hereby transferred to the Board."* [Emphasis added.]

The plan must be read in the light of the message of the President covering Reorganization Plans Nos. 1 to 13 of 1950. That message stated:

"Accordingly, within the limitations explained in later paragraphs, each of these plans vests in the Chairman, in each case, responsibility for appointment and supervision of personnel employed under the Commission, for distribution of business among such personnel and among administrative units of the Commission, and for the use and expenditure of funds.

"In the conduct of all of these activities, the Chairman will be bound by the general policies established by the Commission and by its regulatory decisions, findings, and determinations. In addition, the right is specifically reserved to the Commission to revise budget estimates and determine the distribution of funds among the major programs and purposes of the agency. The appointment of the heads of major administrative units under the Commission is subject to approval of the Commission, and each Commissioner retains responsibility for actions affecting personnel employed regularly and full time in his immediate office.

* * * * * * *

"The fact that under these reorganization plans the commissions retain all substantive responsibilities deserves special emphasis. The plans only eliminate multiheaded supervision of internal administrative functioning. The commissions retain policy control over administrative activities since these are subject to the general policies and regulatory decisions, findings, and determinations of the commissions."

It is clear that the plan transfers from the General Counsel and the Board to the Chairman housekeeping functions and related functions of a supervisory nature. It is equally clear that it is the purpose of the plan as described in the afore-mentioned message of the President to establish between the Board and the Chairman the "identical relationship" as that "provided for the other regulatory agencies," which means that substantive decisions are the responsibility of the Board as a whole and not of the Chairman individually (letter to F. J. Lawton, Director, Bureau of the Budget, from the Attorney General, J. Howard McGrath, April 13, 1950).

(*b*) Budget Director's testimony: Briefly, then, what the plan adds up to is that the Chairman of the Board, subject to the general policies of the Board, becomes the "housekeeping" and operating head of the agency. With respect to the nonoperating functions—the policy-making, the so-called prosecution functions—the Chairman has no more weight or status than any other member of the Board. Mr. Lawton's testimony reinforces this point: "As to any policy-making functions or substantive functions dealing with the rights under the law, those are transferred to the Board, not to the Chairman. The Chairman gets the administrative direction that the General Counsel now has over the field forces and personnel."

Senator IVES. You construe that the General Counsel at the present time exercised far more authority than could ever be lodged under this plan in the Chairman of the Board?

Mr. LAWTON. Very definitely.

Senator IVES. That was my own interpretation (Senate hearings, p. 104).

(*c*) Board testimony: Mr. Herzog was equally certain on this point:

The facts are as follows: The only additional functions the plan assigns to the Chairman of the NLRB whether now vested in the General Counsel or in the Board

members are the purely administrative and housekeeping ones assigned to the Chairman of all 7 commissions covered by plans 6 to 13. The very wording of the plan itself makes it clear that all investigatory and regulatory functions will be vested (in) this Board—precisely as they will continue to be vested (in) the other commissions—not in one man but in the five men who comprise the entire Board. * * * If we thought otherwise, neither my colleagues nor I would be here today to support the President's plan. Having seen what we have of one-man rule, we would be the last to want to see it perpetuated in any form (Senate hearings, p. 115).

This should allay the fears of Senator Taft, who stated:

I would not object to the plan so much if you transferred this to the Board [*i. e., the powers of the General Counsel* (*Senate hearings, p. 41*). (*The printed volume omits this statement through a typographical error. It appears in the page proof and the official corrected transcript.*)]

Beyond dispute the policy-making, "prosecuting" functions are transferred to the Board.

2. *Hoover Commission recommendations.*—There is no doubt that the Hoover Commission report clearly recommended that the housekeeping and operating functions be supervised by the Chairman of the Board. In its recommendation No. 1 with respect to independent regulatory commissions it declares:

we recommend that all administrative responsibility be vested in the Chairman of the Commission (Hoover Commission report, p. 433, McGraw-Hill, 1949).

The Hoover Commission report, on page 429, lists the NLRB as one of the nine commissions to which its recommendations are applicable. The recommendation was made for the purposes of increasing efficiency. In explaining its recommendation the Commission said:

it would be his [the Chairman's] responsibility to deploy the work force most effectively in order to carry out the program developed by the Commission as a whole. It would similarly be his responsibility to see that business is dispatched in an orderly manner.

And further:

The volume of this administrative work will, in every instance, require the appointment of an executive director. He should be responsible to the Commission through the Chairman.

This recommendation does not derogate from the statutory responsibilities placed upon the other members of the Commission. They remain exactly as they are, and because of the better functioning of the organization the Commission members will be enabled to discharge these responsibilities much more effectively.

One consequence of this recommendation will be to center responsibility for the functioning of the Commission. The Chairman will be the Commission's principal spokesman before the Congress as well as before the executive branch (Hoover Commission report, pp. 433–434).

For those who would suggest that plan 12 goes beyond the Hoover Commission recommendations, it is desirable to point out that the limited operating functions, functions which the Hoover Commission proposed be vested in the Chairman, are, in the case of NLRB, vested largely in the General Counsel. To transfer these operating functions, as the Hoover Commission recommends, without disposing of the Office of General Counsel would produce an even more anomalous and confusing situation than presently exists. Thus plan 12 necessarily establishes the same identical organization for NLRB as is produced by applying the Hoover Commission recommendations to the other regulatory commissions.

Those who insist that the Hoover Commission made no specific recommendations respecting the NLRB General Counsel overlook the fact that the Commission commonly made general recommendations without going into all specific effects upon all specific offices. Those who insist on this point are not trying to obtain conformity with the Hoover Commission recommendations, but rather to prevent any application of these recommendations for good organization to the National Labor Relations Board.

3. *Task force questions General Counsel role.*—The special task force charged with studying the independent regulatory commissions did not, of course, recommend, in so many words that the office of the General Counsel be abolished and that his functions be transferred to the Board. Yet an objective reading of the task-force report, it seems to us, clearly indicates that the existing independent status of the General Counsel poses serious problems and that something needed and needs to be done about it. The task force was impelled to make suggestions which would have the effect of minimizing the independent policy-making status of the NLRB General Counsel through the establishment of a—

> Council of Labor under the chairmanship of the Secretary of Labor and including the General Counsel and other Federal officials concerned with labor problems.

The task force felt that their recommendation—

> represented a compromise between the present independent status of the General Counsel and his subordination to a department head.

Actually the very content of the proposal for a council of labor recognized that it dealt with a different issue and only indirectly and partially solved the immediate issue. The Council of Labor was proposed "to coordinate Federal labor policy." For a recommendation directly addressed to the separate General Counsel issue, one must look at the last of the four major conclusions of the task force which states:

> 4. The office of General Counsel should not be left independent of both the Board and the executive departments but should be integrated more closely into one or the other according to the functions to be performed.

With respect to placing the General Counsel in the Department of Labor or the Department of Justice, the task force declared that "each has serious draw-backs" (task force report, p. 140). This leaves only the conclusion that the General Counsel should be a subordinate official of the Board, and that is exactly the effect of plan 12.

Then, the task force went on to say:

> others have strongly urged that the office [i. e., General Counsel] should again be placed under the Board.

To this the objection is made that the prosecuting functions should be separate from the hearing of complaints. (It is worth noting that the task force says "the" objection "is made"; but it is clear that this is not the task force's objection.)

> But as has already been indicated, only in part are his present duties genuinely prosecution. Some parts are administrative, and some parts are a species of rule or policy making. It may be that the administrative and policy-making functions could be subordinated more clearly to the Board's control while still maintaining an adequate separation of the truly prosecuting activities (Senate hearings, p. 6).

4. *Board work load under plan 12 not excessive.*—Critics of plan 12 have charged that the Board's backlog is so large that the undertaking of additional functions would only make for more delay.

There is uncontroverted evidence that (1) the Board's work load, while heavy, is not excessive compared to those of other regulatory agencies; (2) the Board members themselves are practically up to date with their cases.

The following discussion between committee members and Mr. Lawton supports these conclusions:

The CHAIRMAN. Unless it does delegate the power then this is going to place a burden on the Board of an additional responsibility over and above what it has now, and now it has a congested docket that it is not able to take care of, isn't that correct? Then they are going to add this other function onto the Board which it has either got to delegate to someone else or that it is actually going to exercise itself and it is going to increase its work tremendously; isn't that right?

Mr. LAWTON. If it attempted to handle every case, yes, just as if the General Counsel attempted to do it, he would be in the same boat.

The CHAIRMAN. If they do not attempt to do it; they have got to delegate the power to some individual; isn't that correct?

Mr. LAWTON. Yes.

Senator IVES. Mr. Chairman, I would like to ask Mr. Lawton if it isn't a fact also that even though the load to which the chairman of the committee refers may be increased, at the same time the conflicting portions that now are causing confusion or causing inefficiency, or causing, in some instances, very unsatisfactory results, would be eliminated and thereby, in the long run, based on the present operation of the agency, there should be greater efficiency rather than less efficiency?

Mr. LAWTON. There certainly would not be the situation of cases being pressed where a decision had already been made by the Board. They would not take jurisdiction of that type of case.

Just a point on this docket situation for a moment. On April 1, 1950, there were pending at the Board level, in the Board itself, 132 complaint cases and 267 representation cases. In 1949, for the year, the Board decided 1,706 representation cases and 156 complaint cases.

The CHAIRMAN. In what year?

Mr. LAWTON. 1949. These cases that I cited are for April 1. *That condition is not different from the normal condition in regulatory agencies.* [Emphasis added.]

The CHAIRMAN. I did not mean in any sense to reflect upon the Board with reference to the heavy work load that it has, and I may have been misinformed about that, but I just understood that they do have quite a heavy docket.

Mr. LAWTON. Every regulatory commission necessarily has that, I think.

The CHAIRMAN. That is probably no different condition from what you would have in any regulatory body (Senate hearings, pp. 107–108).

Mr. Herzog also, we think, demolishes the argument that plan 12 will place an unbearable work load on the Board members:

So far as the Chairman of the Board is concerned, whoever he may be, it is quite true he would have to devote more time to administrative matters than he has had to do recently, or indeed than he had to do before 1947; he would certainly have to work harder. I think he could be relieved of some of the quasi-judicial work that he performs today, although obviously he would have to participate as a full commissioner in the important matters.

So far as the other four commissioners are concerned, they would have more freedom than they have now, and more freedom than the other two commissioners had before 1947, because they would be completely relieved of doing all that housekeeping and housework.

So far as the Board members are concerned, without wanting for a moment to reflect on our very able staff, *I can say that the Board members themselves are up to date on their docket.* [Emphasis added.] Four hundred cases is an awful lot of cases to have waiting for decision. But the answer is that we have an awful lot of cases coming in. We received 264 cases in the month of March alone, of which 203 are contested. Now if we had more legal assistants assigned to each Board member I suppose we could get more work out.

Now here is what I find: The number of cases actually awaiting discussion by the commissioners at this time is as follows: In the unfair labor practice category where memorandum analyzing the issues have been circulated, six. Drafts circulating and awaiting approval of the Board members, which means drafts circulated over a week, 22 more.

In representation cases, the number of memoranda which are waiting for the Board to get to them for discussion at a Board agenda meeting, 3; the number of drafts circulating and awaiting approval of the Board members, 35. The total is 28 plus 38, and that I think is 66. Now that is 66 out of the 266 cases which are assigned to legal assistants of the Board members, or of the two-thirds of the 402 actually assigned. The others are awaiting assignment. All the other cases are cases in which the records are now being read by our legal assistants or in which the Board is about ready to have them put on the agenda. That, I think, does not indicate that the Board members, however overburdened we would like to say we are, and are, are a bottleneck in the decision of cases (Senate hearings, pp. 143–144).

Mr. Herzog's analysis of Board work load is an appraisal that goes beyond generalities and deals concretely with the problem at hand from the viewpoint of verifiable statistics. And, when the Board work-load problem is seen from the vantage point of the facts, what it comes to is this:

1. To be sure, the Chairman will have to work harder under plan 12 to take care of his operating responsibilities but he will work no harder than do the chairmen of the other regulatory commissions.

2. The work load is heavy and will continue to be, but it is no less manageable than the work loads of the other regulatory commissions.

III. PLAN 12 PROVIDES FAIR TREATMENT

The third large issue which we are addressing ourselves to in determining the worthwhileness of plan 12 is fairness. Plan 12 will assure protection of the public interest and fair treatment for the parties involved to the maximum extent allowed by the act.

A. Fair treatment is not now assured by separation

It is pertinent to look into the standards of fair treatment which now obtain under the present dual arrangement. There is no question but that, as the incumbent General Counsel himself has put it and as he was quoted by the task force—

his powers "are broad and absolute and his authority final to an outstanding degree seldom accorded a single officer in a peacetime agency" (Senate hearings, p. 6).

1. *Unreviewable discretion of General Counsel to refuse issuance of complaint.*—The General Counsel has unlimited discretion to refuse to issue a complaint, yet as the Attorney General's Committee's report points out:

It is the choice of cases in which to proceed which constitute the very lifeblood of the administrative process (p. 23).

The NRLB's statement asserted:

* * * The General Counsel, any General Counsel, may now frustrate the enforcement of that public policy by the simple but devastating means of refusing to issue a complaint. A single individual has unlimited authority to do just that whenever he disagrees with the Board or the courts on any issue. And his refusal to act, even if arbitrary, is subject to no review whatever—by the Board of five members or by the courts. In fact, one person is in a position to make his views prevail in the administration of the statute, without ever permitting either the Board or the courts to agree or disagree with him, as a matter of public record or

of binding precedent. If plan 12 is adopted, this can never happen again. The Board contemplates safeguards to prevent this and other oft-criticized practices.

The unreviewable discretion of the General Counsel to refrain from acting does not only affect unfair labor practice cases. It also impinges directly on the functions reserved to the Board in representation matters, which comprise the greater part of the case load. For example, the statute empowers the Board alone to certify the bargaining representative of employees in an appropriate unit, upon petition of the employees or their employer. The Board's certificate, issued after hearing and a secret-ballot election, is not a binding order to the employer to bargain collectively with the certified representative. The employer may challenge the Board's certificate by refusing to bargain. But the Board is powerless to enforce its certificate unless and until an unfair labor practice proceeding is instituted, and prosecuted by the General Counsel. If he should refuse for any reason to initiate such a proceeding, the certificate would become worthless. And, of course, the policy of Congress to promote industrial peace by fostering collective bargaining would, to that extent, be obstructed. The fact that the Board, in enforcing this particular policy of Congress is exercising a "regulatory" type of power characteristic of administrative bodies, is underscored by the task force report (Senate hearings, p. 122 ff).

2. *Present appeal procedure under General Counsel meaningless.*—The hearings contain no contradiction of the fact that the General Counsel's authority to refuse to issue complaints is not adequately safeguarded by a just appeals procedure.

The task force spells out the character of the present appeals procedure which makes it illusory and not a genuinely independent review:

> In unfair labor practice cases regional directors issue complaints but only with the approval of the General Counsel in some types of cases. The finality of refusal to issue a complaint has led to demands for an appeal; and it has been urged that *an appeal to the same unit in the Counsel's office whose advice was followed in the original refusal is illusory* and that the appeal should be to an independent body. This problem high lights the nature of the authority the General Counsel is exercising (Senate hearings, p. 6). [Emphasis added.]

The General Counsel has testified that the same unit which advises regional directors whether to issue complaints or not is the unit which acts on appeals from the decisions of the regional director not to issue complaints. Here is how the General Counsel states it:

> The cases come in here; they are reviewed by men who have never seen them before; the whole file comes in; we have got everything the regional director had before him when he rendered his decision; and these analyses are made in great detail; they are studied; they go before my group of advisors and assistants. They are in the position then of arriving at a conclusion, and they come up with a recommendation to me or if they cannot agree they come to me and I have to make a determination on it, but it is an independent review, where the cases have never been in Washington before and it is made by experienced personnel.
>
> Now on these that have been into Washington for advice, the file in the case goes into this *same section* which has 28 or 30 top-notch lawyers in it, and analyses are worked out by analysts and they come up with an analysis of the case; they have all the facts before them as to whether it is or is not a case, whether it is a question of law, whether we should go forward with it or not; and I advise the regional director accordingly.
>
> Now, if there is an appeal, if we advise them to dismiss the case, it is perfectly obvious that when it comes back here we are going to, unless there is some new material in it, or something that we have overlooked or something has been added to it, *we will give it the same kind of review we did before but the answer is expected to be pretty much the same as the first one was* (Senate hearings, p. 212). [Emphasis added.]

Now, what does this mean? The unit that originally reviewed the case on a request for advice is the same unit that later hears an appeal from one of the parties after they refuse to accept the advice. Under such an appeal procedure it is to be expected that, by and large, as Mr. Denham says, the answer will be "pretty much the same as the first one was." You simply do not get a fair and equitable right of

appeal, if the persons who turned you down in the first place are the same ones who act on your appeal from the turn-down.

The fundamental inadequacy of the present appeal procedure within the Office of the General Counsel is illuminated by comparison with the Board record on appeals in the last 2 years of the Wagner Act. There is what the comparison shows:

(1) 3.2 percent of the appeals filed with the General Counsel were granted (976 appeals; 32 granted) for the period September 1947–February 1950 (Senate hearings, p. 211).

(2) 7 percent of the appeals in both representation and unfair-labor-practice cases filed with the NLRB were granted (531 appeals, 38 granted) for the fiscal years 1946 and 1947. [Letter from Paul M. Herzog to Senator John L. McClellan, April 14, 1950.]

(3) This comparison distinctly understates the old Board's superior appeals record. The period for which the Board's appeal record is compiled (fiscal 1946 and 1947) is one in which, after a decade of experience, there was a minimum of novel issues and hence a smaller percentage of successful appeals.

The General Counsel's appeals record is based on the hectic, exploratory period of the first 2 years of the act, when it would have been anticipated that many novel issues would be raised and hence a larger percentage of successful appeals.

In brief, one would expect that the General Counsel, operating under a new law, would have granted a larger percentage of appeals than did the Board operating under a relatively old law. Just the reverse, however, is true, as we have seen.

It is fair to say, then, that current separation into independent offices provides the shadow, not the substance, of fair treatment. Vesting in one man the authority to refuse to issue complaints is truly, as Mr. Denham said, vesting powers that are—

broad and absolute and his authority final to an outstanding degree seldom accorded a single officer in a peacetime agency (Senate hearings, p. 6).

B. No other regulatory agency similarly dismembered

What makes the General Counsel's broad and absolute powers even more significant is the fact that no other independent, regulatory agency is subjected to this sawing-in-half of its authority. The evidence is uncontroverted on this score.

1. *NLRB is like other regulatory agencies.*—However, opponents of plan 12 justify this unique treatment on the ground that the NLRB is like no other regulatory agency in that (as far as we can make out) the NLRB deals with human beings—as if the Federal Trade Commission and the Federal Communications Commission and the Interstate Commerce Commission and the Securities and Exchange Commission issued their orders to inanimate objects.

The record shows that there are three basic documents which state unequivocally that the NLRB is in the same class with all other regulatory commissions. The Hoover Commission report makes this point without qualifications of any sort. The task force states this without qualifications of any sort. The Attorney General's distinguished Committee on Administrative Procedure makes this point without qualification of any sort. These were not random judgments but

reflective, objective, scholarly, and extended studies of the problems involved. There can be no question, therefore, that the NLRB is a regulatory agency and that it is also the only regulatory agency which is subjected to bisection.

The task force's observations as to whether the NLRB is like other regulatory agencies are worth quoting:

> The Federal Trade Commission and NLRB appear at first to be exceptions. In part this is due to the fact that their typical proceeding is brought by a complaint against an individual or concern for unfair practices. But the appearance is somewhat misleading. * * *
>
> * * * While the Labor Board does impose sanctions as to past conduct in some cases, an important part of its work is also to prescribe the duties of the parties and to establish the guides for collective bargaining.
>
> In short, each of the Commissions is largely engaged in making policies and defining standards of conduct within the framework of the statute. In great part this is carried on through a quasi-judicial procedure but it involves more than adjudications of a court. In making decisions or regulations defining a standard of conduct, prescribing the duties, or granting a privilege, the Commission must act in the light of the conditions in the industries and the statutory objectives (task force report, pp. 10–11).

There are those who insist that NLRB is different because it does not resort to substantive rule-making and, like a court, merely applies rules laid down in law. The same could be said of the Federal Trade Commission. This merely asserts that the Board prefers to interpret public policy by a process of decision-making rather than rule-making. If anything, one might construe this argument to mean that the Board requires organizational bifurcation because it exercises only quasi judicial and administrative responsibilities whereas other regulatory agencies exercise quasi legislative, quasi judicial, and administrative responsibilities. Like other regulatory agencies, NLRB is responsible for diverse types of interrelated regulatory functions of which quasi-judicial decision is only a small part.

2. *NLRB not like Tax Court.*—As for the analogy with the Tax Court, made with monotonous regularity by opponents of plan 12, Chairman Herzog's testimony is instructive.

> What Congress did when it set up the NLRB to administer the Wagner Act and the Taft-Hartley Act was to set up an agency to administer a policy of the Congress of the United States. The Tax Court so far as I can make out was not established to enforce a public policy in the public interest. It was simply established to determine the rights of private individuals who under the revenue laws think that the Commissioner of Internal Revenue has given them a rather rough deal. * * * The court was set up so the people who did not like what was done by the Treasury Department, who thought they were compelled to pay too much, or people whom the Treasury Department was going after a little bit harder, would have some tribunal before whom to come.
>
> Let me point this out: The so-called separation admittedly exists between the Treasury Department and the Tax Court. It was really quite necessary in terms of fairness because there the Government is not just an investigator and judge, if that is the terminology to be applied to the Board, but the Government in such cases is also the beneficiary or the potential beneficiary. If an excessive tax is collected from an individual the Government is really the adverse party. I cannot see the analogy at all (Senate hearings, p. 141).

Thus far we have made three points in connection with whether plan 12 will assure fair treatment: (1) Fair treatment is not now assured under the present bifurcated arrangement; (2) the NLRB is the only regulatory agency subject to this dismemberment; and (3) the NLRB is a regulatory agency like all other administrative agencies.

C. Fairness can be assured by internal separation

There is now the final point under this heading to which we are addressing ourselves: Experience indicates that it is possible to assure fair and equitable procedures under a regulatory agency without having an independent General Counsel. We believe, moreover, that in fact, a larger measure of justice will be dispensed under a unified administration.

1. *Administrative Procedure Act safeguards.*—The Administrative Procedure Act requires an internal separation of the investigative functions from the decisional functions and was characterized by the chairman of the Senate Judiciary Committee as "a comprehensive charter of private liberty and a solemn undertaking of official fairness." Chairman McCarran, of the Senate Judiciary Committee, pointed up the significance of the Administrative Procedure Act:

> The Administrative Procedure Act is a strongly marked, long-sought, and widely heralded advance in democratic government. It embarks upon a new field of legislation of broad application in the "administrative" area of government lying between the traditional legislative and fundamental jurisdictional processes on the one hand and authorized executive functions on the other. Although it is brief, it is a comprehensive charter of private liberty and a solemn undertaking of official fairness. It is intended as a guide to him who seeks fair play and equal rights under law as well as to those invested with executive authority. It upholds law and yet lightens the burden on those on whom the law may impinge (Administrative Procedure Act, Legislative History, 79th Cong., 1946, Foreword).

The Administrative Procedure Act was an outcome of the most searching and exhaustive study by distinguished lawyers appointed by the now Mr. Justice Jackson, who was then Attorney General of the United States. The final report of the Attorney General's committee had many pertinent things to say about the problem at hand. We paraphrase some of the major points.

1. A Commission which has both the deciding functions of a "judge" and the "prosecuting function of investigation" can function to permit an adequate measure of fair treatment.

2. An administrative agency is not one man or a few men, but many. It is "not a collective person." And the same person who initiates action is not the one person who renders decision thereafter.

3. The commingling of the functions of investigations or advocacy with the function of declining is undesirable, but it is also avoidable.

4. Creation of independent hearing commissioners insulated from all phases of a case other than hearing and deciding will go far toward solving this problem at the level of initial hearings, provided the proper safeguards are established to assure the insulation.

5. The ultimate judgment of the agency heads need be no more influenced by the preliminary authorization to proceed than is the ultimate judgment of the court by the issuance of a temporary restraining order pending a formal hearing for a permanent injunction. The cost of separation of functions through independent agencies includes substantial dangers both to private and to public interests, to wit: multiplication of agencies; loss in consistency of action as a whole.

6. These powers must be exercised within the same body, not only to realize the public purposes which the statutes were designed to further, but to avoid confusion of private interests.

7. With particular reference to such agencies as the Federal Trade Commission and the NLRB, complete separation involves the danger

of friction and of a break-down of responsibility as between two complementary agencies. It will increase litigation and harassment to respondents.

8. While complete separation does not necessarily cure bias which derives from deeper roots than mere organization, conversely it is demonstrable that impartiality can be achieved without separation.

9. The committee—that is, the Attorney General's committee—concludes, then, that—

> complete separation of functions would make enforcement more difficult and would not be of compensating benefit to private interests. On the contrary, both those private interests which the statutes are designed to protect and those which are regulated would be likely to suffer, and finally we conclude not only that separation will not necessarily cure bias and prejudices but that the requisite impartiality of action can be secured by the means set forth in this and the preceding sections of this report (Administrative Procedure in Government Agencies, Report of the Committee on Administrative Procedure appointed by the Attorney General, 1941, pp. 55–60).

It has become the vogue for plan 12 opponents to say that the Congress was fully aware of the Administrative Procedure Act when it passed the Taft-Hartley law and its enforced separation between the General Counsel and the Board, but passed it anyway. This argument is no rational excuse, however, for ignoring the more than 2 years' experience with separation, an experience, it is fair to say, which bears out in a remarkable degree the serious misgivings which the Attorney General's Committee expressed about separation in 1941:

> The loss in consistency of action as a whole (p. 57).
> To divorce entirely the investigating and enforcing arm from the deciding arm may well impart additional confusion (p. 59).
> Separation would seriously militate against * * * the lifeblood of the administrative process—negotiations and informal settlements (p. 59).
> Complete separation of functions would make enforcement more difficult (p. 60).

Although written in 1941, these predictions read like an inventory of the confusion and conflict which have bedeviled the administration of the Taft-Hartley law since its enactment.

In June 1949, Senator Taft felt that reliance on the Administrative Procedure Act was preferable to the difficulties encountered with separation in the Taft-Hartley Act. And in justifying his recommendation for "the elimination of the independent General Counsel" he said:

> Under the Administrative Procedure Act, which was passed since the passage of the original National Labor Relations Act, the judicial and prosecuting functions are largely separated, although not entirely so. The procedure goes back to the Board. However, we felt that on the whole that separation accomplished the purposes we were trying to accomplish in not having the same people bring the prosecution, try the case, and then judge those who they themselves had indicted. That was one of the strong protests made by the labor unions, and we felt that it was sufficiently justified to go back to the Administrative Procedure Act and rely upon that for a fair treatment by the Board (Congressional Record, June 29, 1949, p. 8750).

Senator Taft apparently holds this view currently. He testified before this committee:

> The Administrative Procedure Act simply provides the lines of authority that are in effect, and that is what they had in effect before the Taft-Hartley Act was passed. That was an improvement on the previous law, but under that law the Board was absolutely the head of each branch under the Administrative Pro-

cedure Act; and, of course, to a certain extent under the Administrative Procedure Act and under the plan that I agreed to last year the Board would have to appoint the General Counsel. Being a board, it is not likely that after that it would in any way interfere with his particular functions as to bringing prosecutions or deciding as to what sort of prosecutions he should bring. He would not be likely to go and consult the five members of the Board whether he should start a prosecution that might affect some important feature of the Board's policies. As a matter of fact, the testimony was that after the Administrative Procedure Act the Board did not often interfere with the General Counsel. I think only in one or two cases they interfered with the General Counsel (Senate hearings, p. 17).

2. *Five-man Board fairer than one-man General Counsel.*—It is clear, also, that, where rule making and policy making are involved, five men are surer guarantees of fair treatment than is one man. However much staff advice the General Counsel may rely upon, conferences in his office are necessarily not conferences between equals but only between his appointees and himself. Among the Board members, however, the interplay is between equals with equally independent status. In terms of the general principle the task force report has this to say on the subject:

> A distinctive attribute of commission action is that it requires concurrence by a majority of members of equal standing after full discussion and deliberation. At its best, each decision reflects the combined judgment of the group after critical analysis of the relevant facts and divergent views. This provides both a barrier to arbitrary or capricious action and a source of decisions based on different points of view and experience.
>
> This process has definite advantages where the problems are complex, where the relative weight of various factors affecting policy is not clear, and where the range of choice is wide. A single official can consult his staff but does not have to convince others to make his views or conclusions prevail. The member of the commission must expose his reasons and judgments to the critical scrutiny of his fellow members and must persuade them to his point of view. He must analyze and understand the views of his colleagues if only to refute them.
>
> Experience indicates that these advantages have been in large measure achieved by the commissions. The several members often bring to light aspects missed by the staff or their colleagues. Each brings to bear a different background and experience, and sometimes a specialized knowledge. Deliberation has certainly reduced the likelihood of capricious decision, and promoted objectivity (task force report, p. 21).

Group decision has its potential disadvantages, notably the possibility of delay. But it must be remembered that at certain stages of the administrative process speed of adjudication can profitably be sacrificed to the requirements of just treatment.

In contrast to a bifurcated arrangement, unification of investigation and policy making in a board assures consistency of action down the line in accord with established board policy. It means, too, that parties will not be subjected to unnecessary litigation and harassment because every commission employee will be advising the parties in terms of one clearly defined pattern of decisions. In arguing before the courts for the enforcement of Board orders and decisions the court will be confronted with one, not two, Government positions.

3. *Board plans to assure internal separation.*—These generalized observations can be brought right down to the present situation in the NLRB. In many of his public statements the present General Counsel, who served as a trial examiner under the old Wagner Act, asserted time and again (see NLRB Releases No. 2, p. 2; No. 19, p. 2; No. 25, p. 2; No. 35, p. 7; No. 67, p. 2; No. 102, p. 2) that the Board procedures under the Wagner Act, especially in the later years, were as fair as, if not fairer than, those of other independent regulatory

commissions. Indeed, this is consistent with the Chairman's testimony that the Board procedures anticipated so many of the standards set forth in the administrative procedure statute that very little change in these procedures needed to be made to bring them in conformity with APA (Senate hearings, p. 139).

The tentative pattern of internal reorganization which the NLRB would adopt if plan 12 became operative, it seems to us, gives full promise of providing internal separation of functions and at the same time assuring the development of one policy. This is what Chairman Herzog said on the question:

> In the first place the protections of the Administrative Procedure Act, section 5 (c), which are cited in our statement, provide the first safeguard. The present members of the Board, I am convinced from our informal discussions, will want to do more than the minimum required by the APA.
>
> * * * The Board—not the Chairman, gentlemen—the Board would appoint an administrator or someone with some parallel title whose first job would be when asked by the regional office whether or not he should issue a complaint to advise that regional office whether it is good policy to do so. In most cases, of course, just as now, the matters do not come to this so-called administrator at all. The regional offices would handle it at their end. But let us suppose that, following the advice of this individual who would be designated by the Board, the regional office decides to dismiss the charge of unfair labor practice, where would the appeal lie? Under the plan that we have been thinking about a little the appeal would lie in the first instance in the case of negative action in the region to a committee of high staff officials of the Board appointed by the Board here in Washington * * * (Senate hearings, pp. 131–132).

Mr. Herzog goes on to say that in the very few instances where Board members would have to make a judgment as to whether a complaint should issue, after the appeals committee had acted, the facts in the case would be presented to the Board in a purely hypothetical form with little if any identifying data. It seems to us that the Board would, in preliminary proceedings, deny itself access to the specific facts in a case, in greater degree than do the courts, to provide maximum safeguards against prejudgment. In any case, we are of the opinion that the danger of prejudgment has been exaggerated and the catch phrase, "prosecutor, judge, and jury," makes no sense, as applied to a regulatory commission.

Let us look at the last 2 years of the Wagner Act operation:

1. 8,047 unfair labor practice charges were filed. Three percent, or 242, were appealed to the Board. The remainder, 97 percent, were handled in the field without recourse to the Board as such.

2. 19,122 representation petitions were filed. In 2 percent, or 398 cases, appeals were taken to the Board. Ninety-eight percent were handled in the field without recourse to the Board as such.

3. Therefore, the total prejudgment "potential" was 3 percent in unfair labor practice cases and 2 percent in representation cases.

These statistics reinforce the point which has been made throughout this report and which is a marked characteristic of every regulatory commission: The Board members themselves have no contact of any sort with the overwhelming majority of cases which the NLRB machinery processes. Therefore, to think of the "prosecutor, judge, and jury" as being embodied in the persons of the Board members is highly inaccurate and misleading.

IV. SUGGESTED ALTERNATIVES TO PLAN 12 WILL COMPOUND DIFFICULTIES

The alternatives to plan 12 suggested by Senator Taft and Mr. Denham, although not before the committee for consideration, nevertheless deserve some analysis. Since these suggestions were offered only as plan 12 was submitted, there may be some question as to how serious the sponsors are about their proposals.

A. Senate bill 3339

Senator Taft's S. 3339 sets up in his own words:

> an independent administrator, making the prosecution function absolutely and completely separate in order that the ambiguity question may be cleared up and then clearly dividing the authority between the administrator and the Board (Senate hearings, p. 19).

The bill contains a provision which purports to make possible a speedy determination on the question as to whether the Board will ultimately find jurisdiction.

Not one of the really fundamental defects in the separation of authority is solved. It will still promote two sets of field offices where there was one before. It will still ban the development of a unified policy and unified administration in a crucial area of public policy. The proposed Administrator will conduct even more of a one-man show than does the General Counsel now. In short, Senator Taft's bill solves no serious problem and worsens those that now plague the Board and the General Counsel. As the Board suggests in its testimony, "if separation is bad, divorce is worse."

B. District court review of General Counsel's refusal to issue complaint

Mr. Denham suggests that, when the General Counsel, "having clear facts before him," nevertheless refuses to proceed, there should be provided an appeal to a district court, apparently by way of petition for mandamus.

This is a surprising suggestion inconsistent with basic principles of administrative law. It presents a practical question as to how the person entering the charge is to show that the General Counsel had clear facts before him. A party filing charges has, of course, the burden of showing a prima facie case warranting investigation. He cannot properly, however, be required to go the whole way in establishing an airtight case. Otherwise the General Counsel would need to have no investigative staff or duties. Since this is true, the district court on petition for mandamus would have to analyze not only the case the complainant could make, but also the facts found by the General Counsel's investigation—a type of analysis which courts are traditionally reluctant to undertake.

It seems, moreover, beyond question that, if such authority were granted the courts, it would quite properly be severely restricted to an area defined by some variant of the concept "abuse of discretion." Such review would be much too narrow to accomplish the purposes desired under administrative review, the function of which would be to maintain a relatively broad supervision of the General Counsel's activities to insure that, taken as a whole, they would not tend to favor any of the groups entitled to bring charges. No such objective

could, of course, be obtained by preventing only provable abuses of discretion in individual cases.

There are 200 district courts. Were such authority granted, complete confusion and chaos would result, because of multiple interpretations of a single policy. If 200 district courts were to exercise this proposed review in other than the ineffective fashion described above, the Board and its functioning would be destroyed thereby. The 200 district courts would then make the determinations as to what constitutes an unfair labor practice. They would, in court proceedings, hear the factual evidence presented. They would thus initially interpret the statute and judge the facts. These are now the functions of the Board.

If we are to interpret review on the issuance of a complaint as a decision to institute proceedings, that kind of determination is not exercised by the courts. If we interpret this review as a decision that the issues warrant hearing and decision on the record, then that determination should be made by the agency responsible for that decision.

The proposal is contrary to the whole administrative process in which the administrative branch enforces public policy prescribed in statute. The court generally comes into the picture to adjudicate only where private rights are injured by the positive exercise of such enforcement powers. If we abandon this established policy across the whole range of executive branch activity, the existing divisions of responsibility between the administrative and judicial branches will be confused, the courts will be heavily burdened with administrative determinations, and the costs of government will be increased. The real issue is not judicial review, but whether the important administrative determination discussed here should be reviewed by a multi-headed board or by a single individual.

Except as it is an explicit admission that the General Counsel's refusal to issue a complaint is too much power for one man to exercise, the proposal has no positive merit.

V. SUMMARY

To recapitulate: Plan 12 is fully in accord with the letter and spirit of the Reorganization Act. The opinion of the Attorney General, the testimony of Budget Director Lawton, and Senator Taft's judgment add up to convincing evidence on this score.

Plan 12 will promote greater efficiency and economy. The present separation of authority has stimulated conflict and resulted in duplication and overlapping. In sharp contrast, the total impact of the facts and judgments adduced by the Hoover Commission, the task force of the Hoover Commission, and the Budget Director, and of the unanimous judgment of the Board members, assures us that the Labor-Management Relations Act will be administered more efficiently than it has been if plan 12 is permitted to operate.

We have no doubt, moreover, that in addition to being more efficiently administered, the Taft-Hartley law will be more justly administered. We are persuaded that the present two-headed agency cannot and does not function in a way to provide the maximum degree

of fair treatment which the parties, labor and management, are entitled to get. There is ample evidence that the Administrative Procedure Act and the Board members' clearly stated commitment will provide an optimum degree of justice.

None of the alternatives offered by Senator Taft or General Counsel Denham offers anything but a worsening of the existing bad situation.

HUBERT H. HUMPHREY,
EDWARD L. LEAHY,
WILLIAM BENTON,
IRVING M. IVES.

○

Calendar No. 1527

81ST CONGRESS
2D SESSION

S. RES. 248

[Report No. 1516]

IN THE SENATE OF THE UNITED STATES

APRIL 3 (legislative day, MARCH 29), 1950

Mr. TAFT submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

APRIL 24 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, without amendment

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 12 of 1950 transmitted to Congress by the President on March 13, 1950.

Calendar No. 1527

81ST CONGRESS
2D SESSION

S. RES. 248

[Report No. 1516]

RESOLUTION

Disapproving Reorganization Plan Numbered 12 of 1950.

By Mr. TAFT

APRIL 3 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

APRIL 24 (legislative day, MARCH 29), 1950
Reported without amendment

the Senate Committee on Rules and Administration, and the Committee on Expenditures in the Executive Departments suggests that that committee give further consideration to this matter in order that the indicated improvements to supplement the transfers effectuated under Reorganization Plan No. 20 may be put into effect.

The reports submitted by Mr. McCLELLAN were received and ordered to be printed, as follows:

Reorganization Plan No. 3, of 1950, providing for reorganizations in the Department of the Interior (Rept. No. 1545);

Reorganization Plan No. 14, of 1950, providing coordination of the administration of labor standards in the Department of Labor (Rept. No. 1546);

Reorganization Plan No. 15, of 1950, transferring the functions of the General Services Administration relating to public works in Alaska and in the Virgin Islands to the Department of the Interior (Rept. No. 1547);

Reorganization Plan No. 16, of 1950, transferring the functions of the General Services Administration relating to assistance to local school districts and water-pollution control to the Federal Security Agency (Rept. No. 1548);

Reorganization Plan No. 19, of 1950, transferring the Bureau of Employees' Compensation and the Employees' Compensation Appeals Board from the Federal Security Agency to the Department of Labor (Rept. No. 1549); and

Reorganization Plan No. 20, of 1950, transferring functions relating to acts of Congress, amendments to the Constitution, certificates of appointment, etc., from the State Department to the Administrator of General Services (Rept. No. 1550).

FEDERAL FAIR EMPLOYMENT PRACTICE ACT

The Senate resumed the consideration of the motion of Mr. LUCAS to proceed to the consideration of the bill (S. 1728) to prohibit discrimination in employment because of race, religion, or national origin.

Mr. LEHMAN. Mr. President, the FEPC bill, the motion to take up which is now the pending question before the Senate, is so important that I believe nothing save of a highly urgent character should be permitted to interfere with its orderly and immediate consideration. However, I shall speak very briefly, since the principles and implications of the measure affirm a basic human and civil right, and are fully understood by every Member of Congress.

The real question here is somewhat different, perhaps, than that which is frequently involved in other legislation under consideration by this body. Prolonged discussion and debate frequently help to clarify many issues, not only in the Senate, but for people throughout the Nation. However, I doubt whether either the proponents or the opponents of FEPC would contend that the provisions or principles of the FEPC bill are not fully clear either to them or to their constituents. Yet I believe that every Senator should have an opportunity, of which I hope most Senators will avail themselves, of recording in the Senate their views on this momentous question.

I believe that FEPC legislation has been studied in two committees of every Congress since 1944. The President's splendid bipartisan committee threw additional light on the reasons for such legislation. It is my understanding that an FEPC bill has twice been before the Senate for consideration. Both the Democratic and Republican Parties are committed to legislative action on fair employment practices.

I feel very deeply, and I believe with good reason, that it is not what we now say on FEPC, but what we do that will be closely watched not only in this country but in many other areas of the world. From now on it will be our performance, not our polemics, that will count on this issue. Our standing in the world and our influence in international relationships are as much at stake on the FEPC bill as on any measure which has or will be before us for consideration and action. The simple concept that no man has a right to deny his fellow man the opportunity to earn a living for reasons of race, color, creed, or national origin is so elementary in a free democratic society, that millions of people both here and abroad must wonder what has prevented us from enacting this legislation long ago.

I think it is fair to say that at this juncture in history, the United States is undeniably the most powerful democratic nation in the world. It is the use to which we put our power, not the fact that we possess it, that clearly concerns not only our enemies but even our democratic friends.

Every step we take to broaden the democratic front here at home and to provide greater freedom for our own people, deepens the faith of other peoples in our democratic practices and helps to strengthen their conviction that this Nation is determined to use its power for the sole purpose of preserving liberty and peace.

Similarly, each time that we refuse to meet the challenge to expand freedom here in the United States—a challenge which is implicit in this legislation—we betray our promises and even our principles as a great free nation. Inevitably we shake the faith of other peoples in those promises and principles, provoke new fears of our power, and create further suspicion about the uses to which that power will be put.

The men of good will of both major parties who have worked effectively and harmoniously together on serious problems affecting our foreign policy will, I know, recognize that S. 1728 is not and cannot be permitted to become a party issue. There is certainly enough individual credit for everyone who will join in support of the measure to expand the frontiers of democracy and strengthen individual liberty. And it will be to the everlasting credit and profit of the whole Nation if we act speedily and decisively on the issue of FEPC and enact S. 1728.

As a practical matter we have certainly had enough experience in this country to demonstrate that fair employment practice laws have created better fellowship and understanding in the communities where they are in effect. Where FEPC commissions exist it can be shown that economic and social conditions have vastly improved. The States have had ample time to act in setting up such commissions and the States where FEPC legislation is most needed have not acted. Economic and political discrimination is still the prevailing pattern in far too many areas of this country. We, as the representatives of all the people, should not and cannot tolerate any longer the shocking inequities which deprive men and women of the right to a livelihood simply because of their race, color, national origin, or religious beliefs. I believe that it is my duty under the Constitution and under the oath I took to uphold the Constitution to do everything within my power to see that those inequities are corrected. I have said and I repeat here that I do not believe they will be corrected unless we adopt an FEPC bill which carries sanctions for violations. Every good law, every effective law, must carry some penalties for violation. Otherwise, it is simply an expression of good intentions. While I do not question the integrity or sincerity of anyone in this Chamber who maintains that we do not need any FEPC law, and that we particularly do not need an FEPC law with legal sanctions, I disagree with them with all the force of my mind and heart.

Of course, I am for discouraging discrimination by the use of education, investigation, and by the exposure of this evil by every medium of publicity. But I am convinced that these processes are not enough. They must be supported and augmented by the weight of governmental authority.

The eradication of social injustice and the creation of equal opportunity is and must be the constant aim of progressive democratic government. It is an issue upon which the very safety and preservation of our way of life depends. There can be no real justice where there is discrimination against whole groups of our people, or where there exists inequality of opportunity.

The true test of our faith in the American system is revealed in our determination to defend and protect it against the unceasing attacks of reactionary forces. Discrimination in employment or, for that matter, in any other area of our national life—political, religious, or economic— aids and encourages the enemies of the American system.

I doubt if there is a Member of the Senate who has not expressed himself at one time or another on this issue of fair employment practices. I hope that we shall act and act quickly so that the ringing message will sound around the world that this Government and this Nation means what it says when it holds forth the promise of freedom and liberty for all mankind.

REORGANIZATION PLAN NO. 12

Mr. TAFT. Mr. President, before making the motion which I wish to make with respect to Reorganization Plan No. 12, I gladly yield to the Senator from Illinois [Mr. LUCAS] in order that he may make a statement, if I may do so without losing the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUCAS. I ask unanimous consent that any remarks of mine on this subject be not charged against me on the FEPC bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUCAS. Mr. President, I should like to suggest the absence of a quorum.

Mr. TAFT. I yield for that purpose.

Mr. LUCAS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Holland	Millikin
Anderson	Humphrey	Mundt
Benton	Ives	Myers
Bricker	Jenner	Neely
Bridges	Johnson, Colo.	O'Conor
Butler	Johnson, Tex.	Robertson
Byrd	Johnston, S. C.	Russell
Cain	Kefauver	Saltonstall
Chapman	Kem	Schoeppel
Chavez	Kerr	Smith, Maine
Connally	Kilgore	Smith, N. J.
Cordon	Knowland	Sparkman
Donnell	Langer	Stennis
Douglas	Leahy	Taft
Dworshak	Lehman	Thomas, Okla.
Ecton	Long	Thomas, Utah
Ellender	Lucas	Thye
Ferguson	McCarthy	Tobey
George	McClellan	Watkins
Gurney	McFarland	Wherry
Hayden	McKellar	Wiley
Hendrickson	Malone	Williams
Hill	Martin	Withers
Hoey	Maybank	Young

The PRESIDING OFFICER (Mr. HOEY in the chair). A quorum is present.

Mr. TAFT. I may say, Mr. President, that before the quorum call I had yielded to the Senator from Illinois [Mr. LUCAS] in order to give him an opportunity to make a statement, before I made my motion.

Mr. LUCAS. I thank the Senator from Ohio.

Mr. President, it is my understanding that the Senator from Ohio will, immediately following my short address, move that the Senate consider the resolution disapproving Reorganization Plan No. 12, which motion is not debatable. I rise only to say for the RECORD that it is a little difficult for me to understand the perseverance on the part of my friend from Ohio in insisting on bringing up for consideration Reorganization Plan No. 12. I have talked to the Chairman of the Committee on Expenditures in the Executive Departments, the Senator from Arkansas [Mr. MCCLELLAN], and I have assured him that under no circumstances would I permit any of the reorganization plans to become effective without the Senate having had an opportunity to act upon Senate resolutions disapproving of plans. The Senator from Arkansas, the chairman of the committee, advised me that if the Senate considered resolutions adversely reporting plans by Tuesday of next week it would be acceptable to him.

Mr. President, the House of Representatives is ready to consider Reorganization Plan No. 12. I have been in conference with the majority leader of the House. The majority leader of the House advised me that perhaps tomorrow the House will consider Reorganization Plan No. 12 and try to make disposition of it then. In the event the House votes adversely on the plan, that is, disapproves it, that would dispose of the plan and there would be no need of action by the Senate. If the House should vote in the affirmative, of course, the Senate would have to vote on the Senate resolution.

Mr. President, what I am trying to do, and what I have had little success in doing, is to move along with the FEPC bill, the motion to take up which is the pending question before the Senate. We have had very few speeches this week upon that measure, and there is much to be said on both sides of the question.

As I said, it is a little difficult for me to understand why the distinguished Senator from Ohio persists in moving to consider the resolution disapproving Reorganization Plan No. 12 when he definitely knows it will be considered before the 23d of this month by the Senate, and when he realizes that the House is ready in the first instance to take action upon the plan tomorrow or the next day. I cannot understand it, Mr. President.

I have been criticized in the press for not acting to have the FEPC bill considered sooner than I did. I think the Senator from Ohio perhaps made some statements a few weeks ago that he was ready to go into the question of the FEPC and consider the measure. Now, before we get started on it, after only a few addresses have been made on the measure, we are confronted with the motion proposed to be made by the Senator from Ohio.

It seems to me to be a little strange that we should have to consider Reorganization Plan No. 12 now. That is especially true in view of the fact that the chairman of the Committee on Expenditures in the Executive Departments, the Senator from Arkansas, who, I dare say, is as much interested, and perhaps more so, in civil rights than is the Senator from Ohio, is willing to permit the debate on the FEPC bill to continue, and is willing to have Plan No. 12 and other reorganization plans which have been disapproved by his committee taken up between now and May 23.

I repeat, Mr. President, I do not understand the attitude of the Senator from Ohio. I simply cannot understand it. Whether the Senator from Ohio is trying to eke out a victory here and proclaim it to the country, I do not know. He is not even a member of the Committee on Expenditures in the Executive Departments. Yet he has taken the lead here today. Of course, I know he has some of the southern Senators on the spot. Otherwise, he would not move to consider the plan under these conditions.

Mr. MCCLELLAN. Mr. President, will the Senator from Ohio yield?

Mr. TAFT. I yield to the Senator from Arkansas.

Mr. MCCLELLAN. I will say to the able and distinguished majority leader that no Republican or no Democrat has me on the spot. I tried to discharge my duty in this matter by agreeing previously that I would support a motion to consider the Senate resolution disapproving Reorganization Plan No. 12. I did so primarily because of what I understood to be the implication of the able majority leader's remarks made earlier that when the FEPC legislation was considered, nothing else would be permitted to interfere with it until it was disposed of. At that time I reminded the able majority leader of the reorganization plans which had been submitted to the Senate, which had either to be approved or disapproved by the deadline of May 23. At that time I announced that I would undertake to have considered the resolutions of disapproval which were reported by my committee.

In view of the situation and the procedure which has been followed up to this time with reference to the measure now before the Senate, the FEPC bill, and in view of the assurance of the majority leader now that the Senate will be given an opportunity to consider the resolutions of disapproval of the reorganization plans reported by the Committee on Expenditures in the Executive Departments, and that they will be considered and acted upon before the deadline of midnight May 23, and so long as the proceedings with respect to the FEPC bill are conducted as they have been in the past few days, by the Senate staying in session only for reasonable hours, since there has been no effort to hold midnight sessions and to put undue strain upon those who oppose the bill—so long as that course is followed, I am perfectly willing to try to accommodate both the leadership on the side of the majority and those who are particularly interested in the resolutions of disapproval of the reorganization plans.

Mr. President, I have no special desire to see the resolution dealing with Reorganization Plan No. 12 brought up today. I am perfectly willing that it may be brought up on Monday or Tuesday of next week, or on any day within the deadline period. But I do say to the majority leader that, in view of the rule under which the resolutions must be processed to a final vote, with a deadline date, and in view of the special requirement that a resolution of disapproval must receive 49 votes to be adopted, 49 being a constitutional majority of the Senate, I think reasonable notice should be given of the time the resolutions will come up, so that all Senators interested may have an opportunity to be present and to vote.

So long as that procedure is followed and so long as we continue on the course which has been pursued during the last few days in regard to the motion to take up the FEPC bill, I am perfectly willing to agree at any time to have the resolutions relative to the reorganization plans come up at the convenience of the majority leader.

Mr. TAFT. Mr. President, I think the Senate should, in line with ordinary procedure, adopt this resolution. If we put this matter off until next week, we shall become involved in an equally privileged matter, namely, a petition of cloture on the motion to take up the FEPC bill. Such a cloture petition will be only on the motion to take up the FEPC bill, not on the question of voting on the bill itself. In my opinion there is nothing to prevent the filing of such a cloture petition at any time the majority wishes to file it.

The statute provides that it shall be in order at any time to move to proceed to the consideration of reorganization plan resolutions, and that such motions

shall be highly privileged and shall not be debatable.

Mr. President, we have here an extraordinary procedure, by which we have said that the President in effect may pass a law.

Reorganization Plan No. 12 is an attempt to repeal a law passed by the Congress only 3 years ago. It is substantive legislation. Yet a majority of this body by their votes cannot prevent the President from enacting that law; this body cannot prevent the President from enacting it unless we have 49 Members of the Senate in their seats and affirmatively voting on that question.

So an extraordinary privilege has been provided for in that connection; but, in turn, we have made this matter a highly privileged one.

It seems to me perfectly obvious that resolutions of disapproval of this kind, which have been on the calendar for 2 weeks, long before the motion even was made to have the Senate take up the FEPC bill, should have been allowed by the majority leader to be brought up for consideration upon the request of the Senators who sponsor the resolutions.

It seems to me obvious that the time to take up this particular resolution of disapproval is this week, for if we wait until next week to consider it, we shall then be confronted with eight different reorganization plans which have been reported from the Committee on Expenditures in the Executive Departments; and under the rule, each of those plans may be debated for 10 hours. Perhaps that time can be reduced by majority action, but whether that can be done I do not know.

However, if we postpone the consideration of all these reorganization plans until next week, then, regardless of what the majority leader says, I am sure that Senators who are opposed to the resolutions of disapproval may successfully filibuster to a point where we shall not be able to vote on these measures, even though they are highly privileged. It seems to me that that situation is particularly likely to occur if we wait to take up the resolutions at the same time we take up another highly privileged matter, namely, a petition of cloture on the motion to consider the FEPC bill, a petition which may come up next week. That petition is perhaps equally privileged.

Therefore, it seems obvious to me that the time to take up the resolution affecting Reorganization Plan No. 12, and vote on it, is this week.

We have given notice of this matter to Senators who are now campaigning and to Senators who are necessarily absent at home. We have notified them that this reorganization plan will be taken up tomorrow. We have given them that notice, so that they can be here at that time. We did so only after the majority leader refused to give notice to such Senators, so that they could be here.

I repeatedly asked the majority leader to give such notice, but he consistently refused to do so. Finally, we had to say that on that date we would move to have the resolution considered.

Mr. LUCAS. Mr. President——

Mr. TAFT. I yield to the majority leader.

Mr. LUCAS. I should like to have the floor when the Senator from Ohio is through.

Mr. TAFT. I am not through, but I yield to the Senator from Illinois.

Mr. LUCAS. Very well.

Mr. President, in view of what the Senator from Ohio has said, I simply wish to state that the majority leader will guarantee that the Senate will act upon all these resolutions on or before May 23. There will be no question about that.

What I am trying to do is to permit the House of Representatives to act upon some of the reorganization plans first. In view of the claims which have been made in regard to the votes which will be had on some of the reorganization plans in the House of Representatives, perhaps we might not have to consider one or two of the resolutions in the Senate, if they can be considered in the House of Representatives first. In other words, I am trying to save some time for the Senate. Apparently other Senators do not wish to save time.

Many Senators wish to speak upon almost every other conceivable question, totally ignoring the question before the Senate. It seems to me only fair that under these circumstances the Senate should give the House of Representatives an opportunity to vote first upon this reorganization plan, and that we should continue to consider the motion to take up the FEPC bill, and should continue with that motion until Monday or Tuesday, at which time we can then take up this reorganization matter, and can dispose at that time not only of this particular reorganization plan, which has been reported adversely, but of any and all other reorganization plans, in order.

I guarantee that we will finish with all of them by the night of May 23.

So far as concerns the cloture petition on the motion to take up the FEPC bill, I did state that probably we would file it next week.

However, under the circumstances, if 10 hours will be taken upon each and every one of the reorganization plans or the resolutions of disapproval of the plans, obviously the Senator from Illinois is not going to rush in with a cloture petition. I try to be a fairly reasonable man. I believe I understand a thing or two about what is going on around the Senate.

All I am trying to do is to expedite action on the business of the Senate.

When Members of the House of Representatives have told me that the House will take up Reorganization Plan No. 12 and probably some of the other reorganization plans, it seems to me that when we are in the midst of debate on a motion to take up the FEPC bill, a measure the passage of which has been requested time after time by the Republican leaders, we should continue with that measure or the debate on the motion to take it up, and should not interrupt that procedure for the time being by proceeding to consider Reorganization Plan No. 12, especially when we know that we shall act on Reorganization Plan No. 12 and all other reorganization plans in due course, and before May 23.

Therefore, I appeal to my friends in the Senate to defeat the motion to take up Reorganization Plan No. 12, when that motion is made.

Mr. TAFT. Mr. President, I have only a few words to add.

The House of Representatives has the same problem that we here in the Senate face, namely, the problem of getting a constitutional majority to vote to disapprove a reorganization plan. However, the House of Representatives has a much more difficult job in getting a constitutional majority to vote to disapprove a reorganization plan, because I believe the last quorum calls in the House, during the consideration by the House of the appropriation bill, this week, disclosed the presence of not more than 350 Members of the House; and under the rule, the affirmative votes of 218 Members of the House are required to disapprove a reorganization plan. In short, it is doubtful whether the House will be able to defeat any of the reorganization plans.

Certainly, therefore, it seems to me that we in the Senate should consider these very important reorganization plans; it seems to me that they should be considered in the Senate, where there is a possibility of having all Members present, especially those who are interested in the matter.

We have given that notice to Senators now absent, who are planning to be here tomorrow, in some cases at great inconvenience to themselves, but who nevertheless have planned to be here for that purpose.

Therefore, Mr. President, I now move that the Senate proceed to the consideration of Senate Resolution 248; and on that motion I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. HOEY in the chair). The resolution will be read by title.

The LEGISLATIVE CLERK. A resolution (S. Res. 248), Calendar No. 1527, disapproving Reorganization Plan No. 12 of 1950.

Mr. TAFT. Mr. President, I suggest the absence of a quorum.

Mr. President, I withdraw that request. But I have requested the yeas and nays on the motion to take up the resolution.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. MYERS. I announce that the Senator from California [Mr. DOWNEY] is absent because of illness.

The Senator from Mississippi [Mr. EASTLAND], the Senator from North Carolina [Mr. GRAHAM], the Senator from Wyoming [Mr. HUNT], and the Senator from Florida [Mr. PEPPER] are absent on public business.

The Senator from Delaware [Mr. FREAR], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Iowa [Mr. GILLETTE], the Senator from Wyoming [Mr. O'MAHONEY], and the Senator from Idaho [Mr. TAYLOR] are absent on official business.

The Senator from Maryland [Mr. TYDINGS], the Senator from Rhode Is-

land [Mr. GREEN], and the Senator from Connecticut [Mr. MCMAHON] are necessarily absent on official business at the White House in connection with their duties as members of a subcommittee of the Committee on Foreign Relations.

The Senator from Washington [Mr. MAGNUSON], and the Senator from Nevada [Mr. MCCARRAN] are absent by leave of the Senate on official business.

The Senator from Montana [Mr. MURRAY] is absent because of illness in his family.

The Senator from Mississippi [Mr. EASTLAND] is paired on this vote with the Senator from Rhode Island [Mr. GREEN]. If present and voting, the Senator from Mississippi would vote "yea," and the Senator from Rhode Island would vote "nay."

The Senator from Arkansas [Mr. FULBRIGHT] is paired on this vote with the Senator from Connecticut [Mr. MCMAHON]. If present and voting, the Senator from Arkansas would vote "yea," and the Senator from Connecticut would vote "nay."

The Senator from Washington [Mr. MAGNUSON] is paired on this vote with the Senator from Vermont [Mr. FLANDERS]. If present and voting, the Senator from Washington would vote "nay," and the Senator from Vermont would vote "yea."

I announce further that if present and voting, the Senator from Montana [Mr. MURRAY], the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Florida [Mr. PEPPER], and the Senator from Idaho [Mr. TAYLOR] would vote "nay."

Mr. SALTONSTALL. I announce that the Senator from Indiana [Mr. CAPEHART] is absent by leave of the Senate.

The Senator from Kansas [Mr. DARBY] is absent by leave of the Senate on official business.

The Senator from Iowa [Mr. HICKENLOOPER] who is absent by leave of the Senate is paired with the Senator from Oregon [Mr. MORSE] who is also absent by leave of the Senate. If present and voting, the Senator from Iowa would vote "yea" and the Senator from Oregon would vote "nay."

The Senator from Michigan [Mr. VANDENBERG] is necessarily absent.

The Senator from Maine [Mr. BREWSTER] who is detained on official business is paired with the Senator from Massachusetts [Mr. LODGE] who is detained at the White House reading the loyalty files as a member of the subcommittee of the Committee on Foreign Relations. If present and voting, the Senator from Maine would vote "yea" and the Senator from Massachusetts would vote "nay."

The Senator from Vermont [Mr. FLANDERS] is detained on official business and is paired with the Senator from Washington [Mr. MAGNUSON]. If present and voting, the Senator from Vermont would vote "yea" and the Senator from Washington would vote "nay."

The result was announced—yeas 50, nays 22, as follows:

YEAS—50

Bricker	Byrd	Connally
Bridges	Cain	Cordon
Butler	Chapman	Donnell
Dworshak	Kerr	Saltonstall
Ecton	Knowland	Schoeppel
Ellender	Langer	Smith, N. J.
Ferguson	Long	Sparkman
George	McCarthy	Stennis
Gurney	McClellan	Taft
Hill	McKellar	Thye
Hoey	Malone	Tobey
Holland	Martin	Watkins
Jenner	Maybank	Wherry
Johnson, Tex.	Millikin	Wiley
Johnston, S. C.	Mundt	Williams
Kefauver	Robertson	Young
Kem	Russell	

NAYS—22

Aiken	Ives	Neely
Anderson	Johnson, Colo.	O'Conor
Benton	Kilgore	Smith, Maine
Chavez	Leahy	Thomas, Okla.
Douglas	Lehman	Thomas, Utah
Hayden	Lucas	Withers
Hendrickson	McFarland	
Humphrey	Myers	

NOT VOTING—24

Brewster	Gillette	Magnuson
Capehart	Graham	Morse
Darby	Green	Murray
Downey	Hickenlooper	O'Mahoney
Eastland	Hunt	Pepper
Flanders	Lodge	Taylor
Frear	McCarran	Tydings
Fulbright	McMahon	Vandenberg

So Mr. TAFT's motion was agreed to, and the Senate proceeded to consider the resolution (S. Res. 248) disapproving Reorganization Plan No. 12 of 1950.

Mr. WHERRY. Mr. President, yesterday in colloquy with the distinguished acting majority leader, the Senator from Pennsylvania [Mr. MYERS] I think I made my position plain as to the time which should be allotted for debate on the FEPC. In the course of those remarks I stated I felt that in order to expedite the business of the Senate, privileged matters ought to take their place along with the debate on the FEPC bill and be disposed of as promptly as possible. At that time I stated I felt that ample time should be given to the presentation of the FEPC bill; I so believe, and so far as the junior Senator from Nebraska is concerned, that will be his position. I feel that when privileged matters come up, however, if unanmous consent can be obtained to limit debate in the interest of the pending measure or of any other measure, it ought to be done.

I stated then that I would be glad to work out with the acting majority leader or with the majority leader a unanimous-consent agreement to limit the time on the resolution, if the motion to take up this reorganization plan were agreed to. I have a unanimous-consent request prepared. I do not in any way want to take over the program of the majority leader. I should like to ask him whether he has a plan, and, if he has, I should like to hear it; if not, I should like to present this unanimous-consent request in order to limit debate on the plan as much as possible.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. WHERRY. I yield.

Mr. LUCAS. I have no plan, and this is the first I have known about a unanimous-consent agreement having been drawn up for presentation by the minority leader. Not long ago, after I had been away from the Senate for 2 or 3 days, I presented a unanimous-consent request. I thought the Senator from Nebraska understood what had been more or less agreed upon between him and those who had been acting in my place. The Senator rather took offense because I proposed a unanimous-consent agreement. The Senator now comes along with one already written. The majority leader does not know anything about it at all. Senators on the other side of the aisle have scored a little victory, now, under peculiar circumstances, and immediately they want to present a unanimous-consent request.

Mr. President, under the rule, as I understand, 10 hours of debate are allowed. This is a very important question, and I think we had better debate it a while and then discuss a unanimous-consent request.

Mr. WHERRY. Mr. President, I offer the unanimous-consent request, anyway.

Mr. RUSSELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RUSSELL. I should like to know how the time in this discussion will be charged into the 10 hours allowed by law for the discussion of the resolution.

The PRESIDING OFFICER. Under the rule, the time will be equally divided between the two sides. Prior to the beginning of the debate, the Chair thinks the time should probably be divided half and half.

Mr. WHERRY. Mr. President, I ask that the clerk read the unanimous-consent request.

The PRESIDING OFFICER. The clerk will read the unanimous-consent request.

The Chief Clerk read as follows:

Ordered, That debate on said Senate Resolution 248 disapproving Reorganization Plan No. 12 of 1950, shall be limited to 3 hours; that 1 hour of said time shall be devoted to the consideration of the said resolution on today; that on tomorrow, May 11, the Senate shall resume the consideration of said resolution at 12 o'clock noon, and vote on the question of agreeing to said resolution at the hour of 2 o'clock p. m.

Ordered further, That the time for debate on the part of the proponents of the resolution shall be controlled by the Senator from Ohio [Mr. TAFT], and on the part of the opponents by the Senator from Illinois [Mr. LUCAS].

Mr. ROBERTSON. Reserving the right to object, let me say, Mr. President, that I can understand the desire of the majority leader to expedite the debate on the FEPC matter, but this resolution is before us and those favoring or opposing it could debate it for 10 hours. The offer has been made to debate it for only 3 hours, and to vote at a specified time tomorrow.

Last week I gave notice that at the conclusion of the vote on Resolution 248, I would ask to bring up for consideration a resolution to disapprove Reorganization Plan No. 1.

I should like to amend the unanimous-consent request to provide that after the vote has been taken at 2 o'clock tomorrow on Resolution 248, the Senate take up the resolution to disapprove Reorganization Plan No. 1, and limit the debate to 1 hour, 30 minutes to a side, and then vote on that resolution. In that way we shall have disposed of these two resolutions.

Mr. LUCAS. Mr. President, I hope the Senator from Virginia will not attach that amendment to the unanimous-consent request.

Mr. ROBERTSON. If it is not attached to this request, I shall submit it separately.

Mr. WHERRY. Mr. President, I shall be glad to accept the amendment. It will expedite matters so that both resolutions will be out of the way by 3 o'clock tomorrow afternoon.

Mr. HUMPHREY. I object.

Mr. LUCAS. Mr. President, whatever is included in the unanimous-consent request I would be constrained to object. But before I do so, I should like to say that I am very grateful to my friends on the other side of the aisle for working out this unanimous-consent request and providing for time. It is very kind of them to do that. I know how much they would like to have the debate concluded within a short time. But in view of what happened last year with respect to the Taft substitute, when the distinguished Senator from Ohio undertook to abolish the power of the general counsel and the general counsel himself, it seems to me this is an extremely important measure. Now that the matter is before the Senate, I am certainly going to object, because we shall take the full 10 hours to debate the measure if we can.

Mr. WHERRY. Mr. President, do I correctly understand the RECORD will show that the unanimous-consent request offered by the junior Senator from Nebraska was modified to include the request of the Senator from Virginia [Mr. ROBERTSON]?

The PRESIDING OFFICER. The RECORD will show that.

Mr. LEHMAN. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. LEHMAN. Mr. President, it seems to me it is important to dispose of this resolution as promptly as may be possible, and certainly it is important to dispose of the FEPC matter as promptly as may be possible. Reserving the right to object——

The PRESIDING OFFICER. Objection has already been made.

Mr. LUCAS. I have already objected.

Mr. LEHMAN. Then may I make a motion?

Mr. LUCAS. I do not know; I am not the Parliamentarian.

Mr. LEHMAN. Mr. President, in view of the fact that it is important that we expedite proceedings in connection with both these resolutions, we should proceed and lose no time.

I know the majority leader has given his assurance to the opponents of the FEPC bill that he would not hold the Senate in session beyond a reasonable time in the discussion of the question. He certainly will not recede from that, and I would be the last one to urge him to do so. But there is no reason why we cannot remain until 8, 9, or 10 o'clock to discuss the important resolution which has been submitted by the Senator from Ohio [Mr. TAFT]. Therefore, Mr. President, I move that the Senate remain in continuous session until 9 o'clock tonight.

The PRESIDING OFFICER. The motion is not in order.

Mr. LUCAS. Mr. President, I regret that I cannot agree with my friend from New York.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. LUCAS. I shall yield in a moment.

I know how important the FEPC bill is to Senators on both sides of the aisle, to its proponents and its opponents. I also realize the importance of this particular resolution. In view of the fact that it has been bandied around a great deal in the past year, I do not propose now to hold the Senate until 9 or 10 o'clock tonight and find that we do not have a quorum about the time when we may want to vote. I do not suppose that we would be able to vote by that time, but there is always a possibility around 9 o'clock of doing almost anything to the majority leader. It has happened to me a number of times, and I do not propose that it shall happen again. I see no reason why we should remain here late tonight in connection with this matter, any more than we should remain late in connection with FEPC. There is no more reason for getting the debate in connection with FEPC over as rapidly as possible than there is in connection with the resolution which is now pending before the Senate. The Senator from Illinois, if he can obtain the floor around 6 o'clock, will move that the Senate take a recess until 12 o'clock noon tomorrow.

I now yield to the Senator from Vermont.

Mr. AIKEN. In view of the fact that a majority of the Senate has voted to lay aside the FEPC matter at the first opportunity today, does the Senator from Ilinois really think there is any need for continuing debate on it? Is there not a good deal of shadow-boxing going on, and is there any likelihood that there will be any FEPC legislation at this session?

Mr. LUCAS. So far as the Senator from Illinois is concerned, there is going to be FEPC legislation if by his vigor and his vote he can secure its passage. It goes back to what I said in the beginning, that it is a strange and unusual procedure that Senators who have been constantly crying from the housetops for action on FEPC, would now vote to set aside that measure, when the Senator from Illinois, as majority leader, has definitely guarantied that this resolution would be taken up not later than Tuesday next. I do not know who is interested in FEPC, and I do not know about the shadow-boxing to which the Senator from Vermont has referred. Every Senator will have to be his own judge as to that.

Mr. TAFT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TAFT. May we have a ruling as to when the 10-hour debate begins?

The PRESIDING OFFICER. It has already begun.

Mr. TAFT. How is it charged?

The PRESIDING OFFICER. It began at 4:45 p. m. and it is being charged to each side.

Mr. WHERRY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WHERRY. Is it not a fact that the motion to take up Reorganization Plan No. 12 does not dispose of the FEPC matter? Is it not correct that it will automatically come before the Senate after the pending resolution is disposed of?

The PRESIDING OFFICER. That is correct.

Mr. LUCAS. That is an elementary question, Mr. President. I thought every Senator understood that. However, we thank the Senator from Nebraska for again expounding his knowledge on the floor and for getting us straightened out on a very difficult question.

Mr. LEHMAN. Mr. President, will the Senator from Illinois yield for a parliamentary inquiry?

Mr. LUCAS. I yield to the Senator from New York.

Mr. LEHMAN. While I shall not press the motion which the eminent Presiding Officer of the Senate declared to be out of order, because I see no chance of its being adopted, may I ask the Chair for an explanation as to why the motion which the junior Senator from New York made was out of order? That is my parliamentary inquiry.

The PRESIDING OFFICER. It is not a motion which is contemplated under rule XXII. The Senate is considering a privileged matter. The motion made by the junior Senator from New York is not a motion which is contemplated by rule XXII.

Mr. LUCAS. Mr. President, I yield the floor.

Mr. HUMPHREY. Mr. President, I desire to discuss the resolution that is now before the Senate as a privileged matter.

Mr. TAFT. Mr. President, will the Senator yield for one short statement?

Mr. HUMPHREY. I yield.

Mr. TAFT. In view of the fact that no unanimous-consent agreement has been entered into, it is my present intention, when the Senate convenes tomorrow, to move for a limitation of debate on my motion, unless at that time some limitation has been provided. The proponents are quite willing to limit debate to an hour and a half for their side. I have not consulted the opponents. They may wish a longer time. However, whatever seems to be adequate would be agreeable. Accordingly tomorrow morning at 12 o'clock I shall make a motion to limit debate, so that this matter may be disposed of tomorrow at a reasonable hour and that plan No. 1 may also be disposed of, if the Senate wishes to take up the consideration of plan No. 1.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. McCLELLAN. Who is in control of the time on each side of the question?

The PRESIDING OFFICER. The rule does not provide for any control of the time. The proponents and the opponents have an equal amount of time, and 10 hours is the limit.

Mr. McCLELLAN. I was merely trying to find out who is in control of the time for each side.

The PRESIDING OFFICER. No one is in control of the time. It is a matter of recognition by the Chair.

Mr. McCLELLAN. Mr. President, I move that the Chair designate a Senator to be in control of the time on each side. I do not myself care to control the time and I do not wish to be held responsible for it. However, it would be perfectly agreeable to me if the Senator from Ohio [Mr. TAFT] be in control of the time for the proponents of the resolution. I believe that someone should be designated to control the time allotted to the opposition.

The PRESIDING OFFICER. Does the Senator from Minnesota [Mr. HUMPHREY] yield for the purpose of the Senator from Arkansas making a motion that Senators be designated to control the time of debate on each side?

Mr. HUMPHREY. I shall be glad to yield if I do not lose the floor.

Mr. WHERRY. Mr. President, I ask unanimous consent that the time of the proponents be in charge of the Senator from Ohio [Mr. TAFT], and the time of the opponents be in charge of the Senator from Minnesota [Mr. HUMPHREY].

Mr. LUCAS. Reserving the right to object, I should like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LUCAS. Assuming we debate for 10 hours, and assuming that the proponents of the measure do not use the 5 hours allotted to them, can the opponents of the measure use any of proponent's time?

The PRESIDING OFFICER. No.

Mr. LUCAS. In other words, we are limited to 5 hours on each side?

The PRESIDING OFFICER. That is correct. Neither side may use more than 5 hours.

Mr. LUCAS. Mr. President, I object to the request of the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. McCLELLAN] desired to make a motion, and the Chair asked the Senator from Minnesota whether he would yield for the purpose of making a motion.

Mr. HUMPHREY. I said that it would be agreeable to me, provided I did not lose the floor.

The PRESIDING OFFICER. With that understanding, does the Senator from Arkansas desire to make his motion?

Mr. McCLELLAN. Mr. President, I move that the Chair designate a Senator to be in charge of the time allotted to the opponents, and designate a Senator to be in charge of the time allotted to the proponents.

Mr. HUMPHREY. I understood that the motion referred only to the proponents of the resolution, not to the opponents.

Mr. McCLELLAN. In that event, I ask unanimous consent that the distinguished Senator from Ohio, the author of the resolution [Mr. TAFT] be in charge of the time of the proponents of the resolution, and that the able Senator from Minnesota be in charge of the time of the opposition.

The PRESIDING OFFICER. Is there objection?

Mr. WHERRY. I have no objection.

Mr. LUCAS. Mr. President——

Mr. AIKEN. I object.

The PRESIDING OFFICER. Objection is heard

Mr. LUCAS. Is there objection?

The PRESIDING OFFICER. The Senator from Vermont has objected.

Mr. LUCAS. Mr. President, it is a little difficult to understand how the minority leader can do some of the things that he does.

Mr. AIKEN. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. AIKEN. I objected because I thought it was only right to recognize the majority leader as the one who should be in charge of the time on the other side. I had no other reason in mind.

The PRESIDING OFFICER. Objection is heard.

Mr. AIKEN. I do not wish my objection to be regarded in any way as criticism of the Senator from Minnesota. However, I did not think it was right to ignore the majority leader.

Mr. McCLELLAN. I certainly did not want to circumvent or ignore the majority leader. I was merely trying to bring the matter to a head so that we would know where we were and who was responsible for the time allotted to this debate. Therefore I moved that the Chair make the appointments. I have no desire to place anyone in charge.

Several Senators rose.

Mr. HUMPHREY. Mr. President, I refuse to yield further.

Mr. DONNELL. Mr. President, a parliamentary inquiry.

Mr. HUMPHREY. Mr. President, I feel that time is now being used by the opponents of this resolution, and I wish to carry on with the remarks which I have prepared on the subject.

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. WHERRY. Mr. President, will the Senator yield for one more unanimous-consent request?

Mr. HUMPHREY. The Senator from Minnesota declines to yield further.

The PRESIDING OFFICER. The Senator from Minnesota declines to yield.

Mr. DONNELL. Mr. President, did the Senator observe that I requested permission to make a parliamentary inquiry?

Mr. HUMPHREY. I am very sorry that I feel I cannot yield to my good friend from Missouri, because I have already refused to yield to other Senators. I do not think it would be appropriate to do so. I may say, Mr. President, that it was the intention of the Senator from Minnesota to indicate that the time of the opponents of the measure was in the hands and control of the majority leader. We discussed the matter with the majority leader. He is the majority leader. On the floor of the Senate he represents the proponents of the reorganization plan. I speak with his concurrence and as one of those who supports his position.

The President's Reorganization Plan No. 12 should be permitted to operate. Resolution 248, sponsored by the senior Senator from Ohio, should be rejected. Our case is based on the facts, not on apprehensions, speculation, conjecture, or other assorted devices which have been used in an attempt to discredit Plan No. 12.

Mr. President, I have never been known to have a frail voice, but I submit that the combined opposition of the Senate is a little too much for me.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HUMPHREY. Apparently some Senators have difficulty settling down after the parliamentary tactics which have just been indulged in. I am not so much interested in parliamentary tactics, Mr. President, as I am in the substance of the proposal which is now pending before the Senate. It is legislation that should be considered, not maneuvered.

I shall assume, and I believe, too, that what the Senate is interested in is a just and efficient administration of the Labor-Management Relations Act of 1947. If we can demonstrate that plan No. 12 will provide such just and efficient administration, Senate Resolution 248 will be rejected.

My position on the Taft-Hartley law is well known and I am still sticking by it. But as long as it is the law of the land, pro- and anti-Taft-Hartley-ites have an obligation to have it administered wisely and efficiently. It is not now being wisely administered.

Let us take a look at plan 12 against the backdrop of past and present labor-relations legislation.

The first systematic piece of legislation to deal with labor-management relations in the United States was the National Labor Relations Act, passed in 1935. We know the act better as the Wagner Act.

The Wagner Act did two important things: It set up a representation procedure whereby workers could freely determine whom they wanted to represent them in collective bargaining. And it also specified a series of employer unfair labor practices which the Congress had found were interfering with labor's right of free association. In short, the Wagner Act dealt with representation and with employer unfair labor practices. That is a brief summary of the purposes and the objectives of the Wagner Act.

To administer these two broad categories of cases, the Wagner Act provided for a National Labor Relations Board headed by a three-man commission.

The Board set up what amounts to a three-stage procedure for the handling of unfair labor practices, charges, complaints, decisions. It worked something like this: A union filed a charge alleging certain unfair labor practices. If after investigation the regional director found merit to the charge he issued a complaint. If the charge presented novel or unsettled issues he might in a few instances check with Board personnel in Washington as to whether he should issue the complaint or not. Or, as was true in the vast and overwhelming ma-

jority of charges which came to the field offices, the field examiner who investigated thet charge was able to effect an acceptable settlement and the union withdrew its charge. The case would then end there.

If a complaint was issued, a hearing before a trial examiner was held. The trial examiner issued an intermediate report. Frequently, the intermediate report was acceptable to the parties involved. If not, the case went to the National Labor Relations Board, which issued a decision based on the record made before the trial examiner.

An employer was not legally obligated to abide by the Board's order until it had been reviewed by a circuit court of appeals. Only after the court had upheld the Board's order, in whole or in part, was there a legal obligation on an employer to comply. If after investigation it was found that the employer had not complied with a court order, he was then subject to contempt penalties. So much for unfair labor practices cases under the Wagner Act.

In representation cases, the process was somewhat simpler. Upon investigation that a question of representation existed, the regional director ordered an election in the appropriate unit. The results of the election were certified. But the results carried no sanction at all unless an employer refused to bargain on the basis of the election results. And then only if the union filed a labor practice charge. At that point the charge was processed as I have indicated for unfair labor practice cases.

Conforming generally to the recommendations made by the Attorney General's committee on administrative procedure in 1941, the National Labor Relations Board effected certain changes in internal procedure. These changes had the effect of establishing a marked separation between the personnel engaged in following through a complaint, and those like trial examiners and Board members engaged in rendering a decision after a hearing on the complaint.

I again call to the attention of the Senate the fact that the Attorney General's committee on procedure in 1941 outlined what was considered to be good administrative policy for administrative organizations which had the function of not only holding hearings and arriving at facts, but also of conducting prosecutions and making decisions.

The Taft-Hartley law drastically amended the Wagner Act. To the employer unfair practices, it added union or employee unfair labor practices. It gave the Board, acting through the general counsel, the power to enjoin certain unfair labor practices on the part of the unions in the courts.

But for our purposes, the discussion of plan 12, the most important change which Taft-Hartley affected was a complete and total separation of authority between the issuance of complaint and the issuance of a decision. The issuance of a complaint in an unfair labor practice charge became the sole prerogative of the newly established office of general counsel. The National Labor Relations Act of 1947 put the supervision of field and all legal personnel—with a few exceptions—under the general counsel. The Board retained the power to appoint. But by a formal delegation of authority a few months after the passage of the Taft-Hartley law, the Board gave complete authority for the operation of the field offices and Washington administration to the general counsel.

It also gave him the authority to appoint all personnel short of the Board's own staff. This delegation carried with it the investigative functions preceding a representation case which the act retained in the Board.

Now, what does plan 12 do? In brief it transfers the general counsel's policy-making function to the Board as a whole. I wish to emphasize that plan No. 12 transfers the most important of the general counsel's policy-making functions to the National Labor Relations Board. It also transfers certain housekeeping day to day operating functions to the chairman but under general Board policy.

Mr. President, at this point in my remarks I wish to have printed in the RECORD a detailed analysis of plan No. 12, in order to conserve the time of the Senate. I hope that those who will vote upon the acceptance or rejection of this plan will carefully study the analysis of the plan, and see exactly what is contemplated by the reorganization move.

The PRESIDING OFFICER. Is there objection?

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

Spelled out in greater detail here is what plan 12 does.

1. Plan 12 sets up for the Board an organizational pattern consistent with the pattern of other regulatory agencies. The NLRB is unique among regulatory commissions in being subjected to a sawing in half of the investigatory and decision making functions. No other regulatory commission has imposed on it by statute an independent general counsel.

As the President said in his plan 12 message, "This action eliminates a basic defect in the present organization of the National Labor Relations Board and provides an organizational pattern consistent with that established for the other regulatory agencies" (CONGRESSIONAL RECORD, p. 3292).

2. In order to bring the NLRB into conformity with the organization structure of the other regulatory agencies, plan 12, as the President's accompanying message says, "restores unified authority and responsibility in the Board" (CONGRESSIONAL RECORD, March 13, p. 3292).

3. Plan 12 "restores unified authority in the Board" by dividing up the General Counsel's and the Board's functions into two categories. One category of functions set forth in section 1 of plan 12 are the administrative and executive functions. In case there is any doubt as to what the administrative and executive functions are, the plan itself indicates the order of function involved by specifying the appointment and supervision of personnel (2) the distribution of business among personnel and among administrative units, and (3) the use and expenditure of funds.

The administrative and executive functions on the order of those specifically enumerated above are transferred to the chairman. But with respect to these functions the chairman is not a free agent. In carrying out any of his functions under the provisions of this section, (b) (1) of the plan states, the chairman shall be governed by general policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

The chairman's authority with respect to these functions is limited in two other respects. Subsection (b) (2) makes the appointment by the chairman of the heads of the major administrative units under the Board subject to the approval of the Board. And personnel employed regularly and full time in the immediate offices of the members of the Board other than the chairman are not covered under the chairman's authority. Finally subsection (4) further limits the chairman's administrative and executive functions by reserving to the Board the revision of budget estimates and determining the distribution of appropriated funds according to major programs and purposes.

Section 2 of the plan authorizes the chairman to delegate his authority to any officer, employee or administrative units under his jurisdiction.

4. The other category of functions previously exercised by the general counsel are what might be referred to as the high policy-making functions—the functions that have to do with issuing or refusing to issue complaints. Section 3 of the plan asserts "All functions of the general counsel of the Board not transferred by the provisions of section 1 of this reorganization plan are hereby transferred to the Board."

We have seen that the order of functions transferred to the chairman directly subject to control by the Board have to do with personnel, work allocation, and finances. In the context of the total area of responsibilities carried on by the general counsel, section 1 clearly excludes the complaint-issuing functions of the general counsel and section 3, in turn, clearly transfers the functions not included in section 1 to the Board.

The President, in submitting plan 12, said:

"In regard to the regulatory agencies, the plans distinguish between two groups of functions necessary to the conduct of these agencies. One group includes the substantive aspects of regulation, that is, the determination of policies, the formulation and issuance of rules, and the adjudication of cases. All these functions are left in the Board or Commission as a whole. The other group of functions comprises the day-to-day direction and internal administration of the complex staff organizations which the commissions require. These responsibilities are transferred to the chairman of the agencies to be discharged in accordance with the policies which the commissions may establish." (CONGRESSIONAL RECORD, March 13, p. 3290.)

Later in his message the President states: "The fact that under these reorganization plans, the commissions retain all substantive responsibilties deserves special emphasis. The plans only eliminate multiheaded supervision of internal administrative functioning. The commissions retain policy control over administrative activities since there are subject to the general policies and regulatory decisions, findings, and determinations of the commissions" (CONGRESSIONAL RECORD, March 13, p. 3292).

Mr. HUMPHREY. Mr. President, in summary, the language of the plan leaves no room for doubt that the policy-making, complaint-issuing functions go to the Board and not to the chairman.

Let me recapitulate. The clear language of plan 12 and the accompanying Presidential message add up to this:

First. Plan 12 brings the National Labor Relations Board into conformity with the organizational pattern for the other regulatory commissions.

Second. Plan No. 12 does this by transferring the general counsel's in-

vestigative-complaint issuing functions to the Board, and transferring the business functions previously exercised by the general counsel and the Board, to the Chairman of the Board, in other words, placing in the Chairman of the Board the general housekeeping function, the internal administrative responsibilities, where they appropriately belong.

The present division of authority between the Board and the general counsel has made for an 'administrative monstrosity. Whether you are for Taft-Hartley or against Taft-Hartley has nothing to do with it.

Confusion of policy and enforcement, overlapping, and duplication of functions are bad in any piece of legislation. The glaring defects which arise out of a statutory separation can be documented by citing chapter and verse. And this is precisely what I am going to do. I am going to show that the existence of an independent general counsel side by side with an independent Board is bad administration, all within one agency.

One issue in controversy which has received considerable public airing has been the conflict between the Board and the general counsel over jurisdiction, a continuous argument between the general counsel and between members of the Board as to just where the respective spheres of activity and powers rest.

Mr. Denham, the general counsel of the National Labor Relations Board, made his position quite clear as early as 2 years ago in response to a question from Mr. HOFFMAN of Michigan, who was chairman of a House subcommittee in the Eighty-first Congress. Mr. HOFFMAN asked:

> There is no business, then, that you would not have jurisdiction over?

The general counsel replied:

> I can conceive very few businesses over which there is not at least technical jurisdiction.

In other words, as our minority report points out—and that minority report is available for study by Senators—the general counsel thinks the Taft-Hartley law gives him the power to go into every nook and cranny of the Nation's economy.

The Board thinks otherwise. They have said time and again, and they have said it explicitly to the general counsel since early in 1948, that the purposes of the Labor-Management Relations Act will not be served by penetrating into every grocery store and drug store.

The subcommittee which I just referred to, of which Mr. Hoffman was chairman, was highly critical of the general counsel's position. And certainly Mr. CLARE HOFFMAN, of Michigan, cannot be considered unfriendly either to the Taft-Hartley Act or to the general counsel. The subcommittee stated:

> The subcommittee is of the opinion that this new interpretation proposed by the general counsel of the Board to be placed upon the term "affecting commerce" is not warranted either by the previous history of interpretation and administration of the Wagner Act, by the debates on the bill, or by the terms of the act itself; that such interpretation is not necessary to effectuate the purposes of the act (H. Rept. 2050, 80th Cong., 2d sess., 1948, p. 5).

I am not arguing that the general counsel is wrong and the Board is right. Nor am I arguing the other way—that the Board is wrong and the general counsel is right.

I am arguing that intelligent and intelligible administration of a statute is defeated if unions, management, and the public are continuously confronted with two diametrically opposed viewpoints emanating from the same agency.

If there ever was confusion confounded, and legalistic gobbledygook confounded, it happens to be in the National Labor Relations Board in its relationship with the general counsel's office. Today literally hundreds of businessmen and hundreds of unions are in complete bewilderment because of the difference of interpretation and different viewpoints emanating from two sections of the same agency, relative to the meaning of the provisions of the National Labor Relations Act. They have the interpretation of the general counsel, who says he is free from any supervision by the Board, and that his is the true interpretation of the National Labor Relations Act, and they have the Board's interpretation.

What about the field employees of the Board who have the job of advising unions and management as to whether they are covered or not? To whom shall they listen? The general counsel, who is their boss says one thing. The Board decisions, to which they have to look for policy guidance, say something else.

The policy conflict is the sort of conflict that can take place between reasonable people. If it is not over jurisdiction, it can be over secondary boycott or any one of the provisions of a statute.

What I am trying to say is that this conflict exists not because the statute is unclear on jurisdiction or on anything else. No one has ever succeeded in framing a statute which is so definite and precise that it needs no interpretation. No, what we are confronted with is not vagueness but separation which makes it possible for one agency, or at least nominally one agency, to stand for two different things at the same time.

For further support we can turn to no less an authority than the distinguished senior Senator from Ohio who almost a year ago said:

> The difficulty which arose with the independent general counsel was that he took a different view of the jurisdiction of the Board than did the Board itself. He would bring a case which he thought was covered by the act. After a year's litigation the Board would rule that it was not covered by the act.
>
> In the last analysis the Board determined the result, but in the meantime there was confusion. There was difference of opinion. There was difficulty in the separation of powers (CONGRESSIONAL RECORD, 1949, p. 8750).

Nobody has really put it more succinctly. There was confusion. There was difficulty in the separation of powers. The senior Senator from Ohio was absolutely right. By the way, the solution proposed by the senior Senator from Ohio was the elimination of the independent office of general counsel.

The ugly consequences of separation of authority are also revealed in the problem of enforcing Board orders.

The Board is empowered to enforce its orders in the courts. That is, it is the Board's responsibility to petition the circuit court for a review of Board orders. As I have already said, the Board order has no meaning unless a circuit court orders a respondent to comply.

Now this kind of enforcement work can only be done by lawyers. But the statute specifically puts all lawyers except legal assistants to individual Board members under the supervision of the general counsel.

So here we have a situation where the Board is required to enforce its orders, and the law requires that the general counsel, who does not believe in the Board's orders, shall represent the Board before the circuit court in the enforcement of orders that he himself may oppose or be in complete and total opposition to.

In several cases in which the Board's order differed from the position which the general counsel took when he issued the complaint, the general counsel has refused to go into the circuit court and seek enforcement of the Board's order. The general counsel said he would be embarrassed if he took a position before a circuit court which differed from the position he took in issuing the complaint.

Let me present an example. Indeed in the Haleston Drug case, a very familiar case in the annals of labor-management relations law, the general counsel informed the Board that he might wish to go into court on his own so that he could state his point of view which was opposed to the Board's.

This is confusion again confounded. Here we have one agency, one law, and the general counsel is supposed to be the enforcement officer under that law. Then what happens? In a very important case before the National Labor Relations Board, in which a ruling has been made, the general counsel says he would like to go into court on his own, not for the Board. To do what? To fight the Board's ruling, a Board which is supposed to be working in conjunction with and in cooperation with the general counsel. Here again the interested public would have been regaled with the sight of the Government of the United States arguing for two opposing positions in one case. Literally it would be talking out of both sides of its mouth.

In another case the Board had to direct the general counsel to omit from a brief a statement of his position which he took as independent general counsel, a statement which was opposed to the position which the Board was making before the court.

This is a sort of Dr. Jekyll-Mr. Hyde business. On the one hand, he is supposed to be the agent of the Board, and on the other hand, he is supposed to be his own agent, representing his own interpretations, even though the law requires that the general counsel's office

represent the National Labor Relations Board before the court.

The confusion caused by separation has spread to Board employees. It is almost an impossible situation.

In 1947 the National Labor Relations Board delegated its appointing authority over the field staff of the Board to the general counsel. That was done for purposes of convenience and to clarify the law so that there could be some coordination of activity. In 1949 it withdrew part of its delegation, to the extent that regional directors may still be named by the general counsel, but they have to be approved by the Board.

I know this must sound very confusing, Mr. President; and I say quite candidly that it is confusing. Those of us who have to spend a great deal of time in endeavoring to understand the relationship between the general counsel of the Board and the Board find it almost impossible to understand.

The general counsel challenges the right of the Board to withdraw its delegation, and says he has sole authority to appoint regional directors. Mark my words, Mr. President; back in 1947 the Board gave to the general counsel the right to make those particular appointments, and now the general counsel says that he alone has authority to appoint the regional directors, and he challenges the right of the Board to withdraw its delegation of that power to him.

The Administrative Division—in other words, the division which has control of the housekeeping activities of this administrative agency—and which works for the Board and for the general counsel, is, therefore, caught between the conflicting contentions of the Board and the general counsel.

In other words, Mr. President, we have a group of Federal employees who are supposed to be carrying out the responsibilities of recruiting certain persons for positions as regional directors. On the one hand, the Board says, "We have the responsibility of appointing the persons to be regional directors." On the other hand, the general counsel says, "Oh, no; you do not; you gave that responsibility to me back in 1947, and now that you have given it to me, you cannot withdraw it."

So, an entire agency of the Federal Government, which has been given a sizable appropriation, is confronted with that perplexing problem. Its employees do not know whether they should take orders from the general counsel or whether they should take orders from the National Labor Relations Board itself.

The Board members have stated in their uncontradicted testimony before our committee that they found they had to withdraw part of the delegation because Board employees were reflecting the general counsel's viewpoints on representation cases, although those representation cases are within the sole province of the Board.

There is substantial evidence that the rights of due processes had been impaired, too, as a result of the separation. This is quite ironic because the reasons given for the separation of the general counsel and the Board in the Taft-Hartley law were to strengthen due processes.

In a very real sense it can be said that the general counsel is indeed a judge, jury, and prosecutor. Mr. President, the judge, jury, and prosecutor role of the general counsel stems from his unlimited authority to refuse to issue complaints.

Here we have a situation in which one man without reason or explanation may refuse to bring cases before the Board's consideration. This is much too much power to remain in the hands of one man.

Here is the situation which a litigant before the Board is confronted with: A union or management representative files a charge with the regional director. The regional director requests advice from the general counsel's office. Many new cases, I am advised, arise. A special unit handles these requests for advice. Let us assume that the office of the general counsel says that the complaint should not issue. This information is transmitted to the litigant. He says to the regional director, "Is there any way in which I can get an appeal from this decision?" "Sure," says the regional director, "send one to the general counsel." Whereupon the appeal is filed, but it is handled by the same unit in the general counsel's office which originally advised the regional director not to issue a complaint.

That does not seem very much like due process of law or equal protection under the law. It seems to me that is a farce; I repeat that it is a farce on the right of appeal.

If Senators think this criticism is made only by persons who want to change the Taft-Hartley law, I want to call attention to the observation made on this point by the task force of the Hoover Commission. I want to remind Senators that the task force appointed by former President Hoover was composed of Owen D. Young, a distinguished American industrialist, and Prof. Robert R. Bowie, a noted professor of administrative law at Harvard University. This is what they said:

> In unfair-labor-practice cases regional directors issue complaints but only with the approval of the general counsel in some types of cases. The finality of refusal to issue complaint has led to demands for appeal; and it has been urged that an appeal to the same unit in the counsel's office whose advice was followed in the original refusal is illusory and that the apeal should be to an independent body. This problem highlights the nature of the authority the general counsel is exercising.

Mr. President, that Task Force of the Hoover Commission came to the same conclusion to which any other citizen would come, namely, that if the general counsel has refused to issue a complaint, an appeal from that decision of refusal should not go for determination to the one who made the refusal in the first place.

The general counsel himself has said and, by the way, this statement is quoted by the Hoover Commission Task Force:

> The incumbent, Mr. Robert Denham, has noted that his powers are "broad and absolute and his authority final to an outstanding degree seldom accorded a single officer in a peacetime agency."

The Hoover Commission Task Force points to the illusory character of the appeals procedure in the general counsel's office. The general counsel himself refers to his powers as broad and absolute.

I just cannot see how the opponents of plan No. 12 who say that they are interested in due process can support such broad and absolute powers in one man in an executive agency of the Government.

The incumbent general counsel himself conceded in the hearings on this very proposal, plan 12, that he probably had too much power and suggested that appeal be established to the district court. I shall have something more to say about the alternative but at this time I want to make the point that the incumbent himself, testifying before a committee, recognizes the scope and breadth of his powers. He said he had too much.

When we add up the ingredients of separation—policy confusion, duplication, and overlapping of functions—what we get is a drastic reorientation of the philosophy of government in labor relations.

As I understood the purposes of the Wagner Act and as I understood the good-faith protestations of the supporters of the Taft-Hartley law, the only role of government that made any sense in the field of labor relations was remedial, not punitive.

We realize that if we were constantly to pit unions against management as perpetual adversaries, that we would have a state of constant belligerence, or labor-management warfare.

The reorientation which the office of the general counsel has injected in the labor-management situation is one of punishment instead of settlement. Indeed, the general counsel in many of his observations through the last 2½ years has referred to himself, not as a general counsel, but as a prosecutor. I think he is right. He is a prosecutor. And he is a prosecutor because the statutory role which the Taft-Hartley law assigned him is that of a prosecutor. He is doing exactly what the law says. There is no reason to believe that any other incumbent would act differently. This is not a question of whether a man has the right personality. It is not a question of whether he sleeps well at night and wakes up with a smile on his face. It is a question of law that the general counsel's office, as an independent agency or an independent function, has within itself the ingredients of prosecution and of the prosecutor's office.

I submit, Mr. President, that the record will bear out the statement I am about to make. Mr. Styles, the newest member of the Board—was a former regional director—confirmed unanimously by the Senate, he made this point very clearly, and Mr. Styles is worth listening to because he came to Board membership after a long period of service as a field representative of the Board. He told the Senate Committee on Expenditures in the Executive Departments that "One of the great weaknesses of the general counsel concept has been the difficulty of administration at the regional level because people wanted to litigate;

people said, 'this is a statute under which you prosecute, now get out there and prosecute'." Mr. Styles says that he noticed a tendency for the field personnel to drop their settlement efforts to a large degree. He brought out in his testimony that their efforts seemed to be in the direction of legal prosecution.

Chairman Herzog, speaking for a unanimous board before the committee—and I want to underline the word "unanimous"—gave us uncontroverted statistics that there was more litigation, relatively speaking, than less as a result of the separation of power. Here is what Chairman Herzog had to say:

> Under the present dispensation a great many more cases actually do go to complaint and hearing than did during the period when we had a single administration of the statute. During the last year of the Wagner Act about 7½ percent of the unfair labor practices cases went to hearing; over the entire 12 years it was 9½ percent * * *. It is the ones that go to hearing * * * that are the expensive ones. During the last 2½ years the figure of cases going to hearings—

That is, hearings in the field, before the Board—

> is 14.1 percent which is a great many more. Let me say this, in fairness, however; if consolidations are considered, the figure drops to 11.6 percent.

That is published in the minority views, Report 1516, on page 23, but this is the testimony of Mr. Herzog before the Senate committee.

Even when a comparison is made of the types of cases which were common to both the Wagner Act and the Taft-Hartley Act, that is, the cases of unfair-labor practices against employers, a much larger proportion of these cases has gone to hearings under the Taft-Hartley law than was true under the Wagner Act.

Thirteen and three-tenths percent of the Taft-Hartley section 8 (a) cases have gone to complaint and hearing. This is twice as many cases of the same type which went to complaint and hearing during the last year of the Wagner Act.

I think our minority views sized the situation up pretty well. The report setting forth the minority views was concurred in by the distinguished senior Senator from New York [Mr. IVES], who has great insight into labor-management problems. He and I have not always agreed upon all matters of labor legislation, but I am sure that there is rather universal agreement at least between the two of us on the matter of the general counsel's office and of its separation of powers or functions. Here is what was said in that report of the minority views:

> These data—

That is, these percentage figures—

> show that the present dual structure is responsible for more adjudication than is required to get effective and fair administration of public policy.

It means, too, that there is a singular inability of the regional staffs and the general counsel to translate the decisions of the Board into action at the investigative and prosecution stages, in order to reduce the number of cases which have to run the full gamut of the Board processes. This is wasteful and it results in failure to get speedy adjudication of disputes.

This is not only the verdict of the minority views. It is also the verdict of a committee of some of the most distinguished legal minds of the country, appointed by the Attorney General, formerly Mr. Jackson, who at the present time is a member of the Supreme Court. In 1941, this significant Attorney General's Committee on Administrative Procedure, said:

> Even where formal proceedings are fully available informal procedures constitute the vast bulk of administrative adjudication and are truly the life blood of the administrative processes. No study of administrative procedure can be adequate if it fails to recognize this fact and focus attention upon improvement at those stages.

This is from the report of the Attorney General's Committee on Administrative Procedures in Government, page 35.

In short, what has been happening is that there has developed a clot, to use the Attorney General's committee's metaphor, in the life blood of the administrative processes.

The Attorney General's committee said this in 1941 and they applied it to all regulatory agencies. It is a tribute to their wisdom that what they said in 1941 as a general rule has been proved by what has happened in 1947, 1948, 1949, and 1950, as a consequence of the separation of authority of the NLRB.

I repeat, Mr. President, that the wise decision and policy of the Attorney General's committee have worked out in practical application exactly as they said they would in the National Labor Relations Board's separation of authority. The committee said that if there were separation of authority the processes of fair and just administrative procedure would be stopped and that there would be confusion, duplication, and an overlapping of functions and responsibilities which would make for administrative chaos. I repeat, Mr. President, that is exactly what has happened, and no one can dispute the fact that the National Labor Relations Board's separation of functions of general counsel and Board is the only instance of the kind in the Government. It is a violation of the Administrative Procedures Act, a violation of the Attorney General's committee policy, and a violation of any sensible, sound administrative practice.

I think that is best testified to by the fact that one of the authors of the bill, the senior Senator from Ohio [Mr. TAFT], was one of the first to propose the abolition of the independent status of the general counsel's office. The fact that he does not want it abolished in this way does not remove the fact that it should be abolished. There is no argument between the senior Senator from Ohio and the junior Senator from Minnesota as to the need of abolishing such independent status. There seems to be some argument as to how it should be done and how far it should go.

With due respect to the motivations of my friends who have taken an opposite position on plan 12, I must say that if ever I saw an open-and-shut case of bad administration of a statute this is it. And it is not bad administration because the people are necessarily bad; it is bad administration because the principle of separation in a regulatory commission is bad.

In other words, it is simply a bad type of law in terms of administrative procedure. I am not talking about the content of the law. There are honest differences of opinion as to whether the Taft-Hartley law is a good or a bad law, in terms of our personal points of view. I am talking about the statute as it applies to administrative procedure, and I submit that the statute is indefensible.

Here is what makes it an open-and-shut case: First, a public conflict between the general counsel of the Board and the Board members over what constitutes the policy of the United States Government with respect to a single statute; second, unions and management plagued with doubt as to whether they are covered by a provision or are not covered by a provision, of a single statute; and third, the men and women of a single agency supervised by one branch but looking toward another branch for clarity. It simply cannot operate that way, Mr. President. This, to me, is government at its worst; it is indefensible government; it is government which goes into the depths of the worst confusion of administration. Persons who talk about good government and who believe in the Hoover Commission reports and in efficient government, surely could not defend this kind of an indefensible establishment.

The fourth point is that unions and management are going through needless litigation.

I am willing to admit that it is a sort of employment program for lawyers who may be called upon to ascertain what the general counsel means and what the Board means. But the purpose was not to provide an employment program for attorneys; it was to try to establish a body of rules and regulations by which labor-management relations might be properly conducted.

The fifth point is that there is one man with the power to deny access to an important remedial statute.

I repeat, the general counsel can deny the issuance of a complaint, and I repeat that the only appeal procedure, which is an indefensible procedure, is to appeal right back to the man who originally denied the issuance of the complaint.

If this is not an intolerable situation I do not know what is.

There is ample evidence that plan 12 will substantially improve the situation. It will improve the situation because it will substitute for the separation of authority, a single, unified line of responsibility and, as I shall show, it will insure a larger measure of justice than obtained under separation.

Plan 12 will eliminate confusion because there will be only one policy on jurisdiction. There will be only one point of view submitted to a circuit court. The Board's customers, in a manner of speaking, the unions, the employers, the

individual workers who seek to use the Board's machinery will know what the Board's position is. They will not have to discover it by long-drawn-out litigation.

What is more, the personnel of the Board will not be suffering from split personalities. There will be only one voice which they have to listen to. They will be able to give authoritative advice to the union and management people who come to them. They will speak as representatives of one agency, not two agencies. In this respect the Board will be like every other regulatory agency.

That is, in substance, what plan 12 does. It puts some sense into administration. It makes it possible for an agency of government to speak with one voice, to give one decision, to have a uniformity of procedure, to have a uniformity of policy, and not to permit a sort of split personality on the part of the employees in trying to find out whether they should be loyal to the decision of the general counsel or loyal to the decision of the National Labor Relations Board.

Plan No. 12 will eliminate duplication and tend to improve efficiency.

The number of cases going to Board hearing will be minimized. There will be a greater number of settlements at the earlier stages. The relationships between the unions and their employers will not be aggravated so much by long-drawn-out litigation.

Jurisdictional disputes are inherent in the law, although it was designed to outlaw jurisdictional disputes. Under a law which was designed to outlaw jurisdictional disputes, there occur very serious jurisdictional disputes and right in the National Labor Relations Board.

Plan 12 would relieve the Board members of what appears to be the limitless possibility of controversy with the General Counsel. They will be able to spend more time thinking about their decisions and less time engaging in controversy with an independent general counsel.

Certainly there should be an improvement in morale on the part of Board personnel. We can not have conflict going on without its having demoralizing effects on the people out on the firing line, in New York, San Francisco, Atlanta, Birmingham, Cleveland, Cincinnati, Minneapolis, or Denver.

The pattern of organization which plan No. 12 will usher in is a pattern that has been tried and proven as fair.

There are three sets of safeguards which the Board is mandated to apply to protect due process. These safeguards go beyond the safeguards for due process which the other regulatory commissions must abide by.

Obligatory on all regulatory commissions is the Administrative Procedure Act. The Administrative Procedure Act is no hasty piece of legislation. It was preceded by years of intensive investigation and study by a distinguished group of lawyers appointed by a respected Attorney General.

It was made into law in 1946 and the senior Senator of Nevada, the chairman of the Senate Judiciary Committee, said about the Administrative Procedure Act:

> It is a comprehensive charter of private liberty and a solemn undertaking of official fairness. It is intended as a guide to him who seeks fair play and equal rights under law as well as to those invested with executive authority. It upholds law and lightens the burden on those on whom the law may impinge. (APA Legislative History, 79th Cong., 1946, Foreword.)

The Administrative Procedure Act made mandatory internal separation between what has come to be known as the prosecuting function and the decision-making functions. It has ordered this separation at the same time that it has not shackled a regulatory commission with endless haggling and red tape.

The second set of safeguards, and these go beyond the safeguards imposed on any other regulatory commission, are in the Taft-Hartley law. Section 4 (a) says "no trial examiner's report shall be reviewed either before or after its preparation by any person other than a member of the Board or his legal assistant and no trial examiner shall advise or consult with the Board with respect to exceptions taken to his findings, rulings, or recommendations." These restrictions, as I have said, go beyond the restrictions imposed on any other agency. Plan 12 does not in any way affect these restrictions.

And then there are the provisions for court review which are as strong and probably stronger than that which the orders of any other regulatory agency are subjected to.

That is all in the body of the Taft-Hartley law. We say those regulations and restrictions are not affected by plan 12.

If the Federal Communications Commission should unjustly deny a license to a prospective broadcaster, the license is denied and the party presumably suffers until, and if, he can get a court order overruling the FCC decision.

In the case of an order or decisions of the NLRB, however, the respondent, that is, the union or the management, is not legally compelled to do anything until the Board's order is upheld in a circuit court. The respondent may with impunity continue doing as he has done without any penalty whatsoever.

The findings of the Board on issues of fact must be supported by substantial evidence in the record. The court, however, is the sole judge of the law. I am not a lawyer but what this means to me is that, in effect, the court reviews both the facts and the law.

Going beyond any of the requirements of due process demanded by the Taft-Hartley law and the Administrative Procedure Act, the chairman of the Board has told our committee that the Board will introduce still additional safeguards to the sanctity of the due process as it operates in Board procedure. Our committee was told that the Board would appoint an administrator "whose job would be 'when asked by the regional office whether or not he should issue a complaint, to advise that regional office whether it is good policy to do so.'" Most of the cases would not come to this so-called administrator. Most of the cases would be settled in the field. But if the administrator thinks that a complaint should not be issued then the agrieved party would have a right to appeal, not to the administrator who had made the original decision, as under the present situation, but to a committee of high staff officials of the Board appointed by the National Labor Relations Board.

In other words, the Chairman of the Board put himself on record as giving us adequate guaranties for the appeal procedures if plan No. 12 were to be adopted.

Should the Board members be required to intervene personally in this appeal stage, the facts in the case would be presented to the Board in a purely hypothetical form with little, if any, identifying data. The lawyers tell me that the Board would in these preliminary proceedings deny itself access to the specific facts in the case in greater degree than do the courts in a preliminary proceeding. It seems to me that if the danger of prejudgment has any merit at all, here is as complete protection as you can get with human beings, not angels.

Let me, then, sum up the positive aspects of our case for plan 12. First, the really important authority of the General Counsel is transferred to the Board. The day-to-day operating and housekeeping functions are transferred to the Chairman of the Board under the supervision of the Board. Second, the situation which obtains now under the present sawed-in-half arrangement puts a premium on policy conflict, confusion, duplication, and overlapping of responsibility and function. Third, the present arrangement with an independent Counsel has impaired due process, not aided it. Fourth, the enactment of plan 12 will bring a greater measure of efficiency and economy. Fifth, plan 12 plus the APA, plus the Taft-Hartley law safeguards, plus the changes in procedure which the Board will make on its own motion, will guarantee a maximum amount of fair treatment.

I do not think that I have used all of the ammunition in the arsenal of those favoring plan 12. I want to use some of the points favoring plan 12 to answer directly the contention of the majority report which urges that plan 12 be rejected.

Therefore, I submit for the RECORD at this point a critical analysis of the majority report, and I ask unanimous consent to have it printed in the RECORD at this point in my remarks.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

> Let me say at the outset that I think that the committee majority has done the best it could with the meager materials at its disposal. When you get right down to it, most of the points, in fact all of the points except one, are based on speculation, conjecture, and straw-man arguments.

Point one of the majority decisions says: "The plan repudiates a policy overwhelmingly expressed by Congress as recently as 1947."

The use of the word "repudiate" in this connection is a perfect illustration of semantic antics. If by "repudiate" the committee majority means "change," well, every reorganization plan changes a policy made by Congress previously. In that sense, therefore, every reorganization plan which Congress has approved repudiated something which it had done previously. If the plan did not repudiate a previous policy there would be no need for subsequent action by Congress. What I am getting at is, that the use of the word "repudiate" in this connection is intended to load the issue.

Moreover, the Senate of the United States is on record in 1949 in favor of eliminating the office of the general counsel. The Senate, whatever else may be said about its action, conclusively stated what its policy is. Plan 12 does precisely what the Senate said should be done in 1949. So Plan 12 certainly does not repudiate a policy of the Senate.

Further, the Senate never had an opportunity to debate the question of an independent general counsel as part of its own legislation. In fact the Senate's own version of the Taft-Hartley law specifically provided for the NLRB without an independent general counsel.

When the Senate did get an opportunity to vote on the House version of the Taft-Hartley law it had to vote on the conference report as a package. There was no opportunity whatsoever to make any amendments to the conference report. The Senate had to take it or leave it. Unfortunately it took it.

Assuming for the sake of the argument that plan 12 is changing a policy, isn't it necessary for a legislative body to evaluate, and change, if necessary, policies in the light of experience? We have now had close to 8 years' experience with separation of authority. Indeed, after less than 2 years' experience the man whose name the legislation bears, the senior Senator from Ohio, asserted that perhaps the most important of the amendments which he had suggested in 1949 was the elimination of the independent general counsel. I have already called attention to the characterizations by the senior Senator from Ohio that there was confusion, there was difficulty in the separation of powers.

I just cannot see how anybody can say that we ought not to change a policy after it has demonstrably been responsible for confusion, inefficiency, and impairment of fair treatment.

One of the most striking things about the record made before our committee is the unanimity with which even witnesses opposing plan 12 found important difficulties in the present position of the general counsel. I suppose the only exception to that would be Mr. Iserman who had a hand in framing the present law and who, in any event, saw no reason why the whole business of labor relations couldn't best be handled by abolishing the Board and throwing the whole business into the Federal district courts.

The senior Senator from Ohio thought so highly of the present independent status of the general counsel that he introduced a bill abolishing that office and setting up an independent administrator. Mr. Reilly, another adviser to the authors of the Taft-Hartley law, acknowledged that there are difficulties. He thought clarification would be the answer. Even Mr. Denham testified that he had more power than one man should have. He suggested that appeals from his decisions not to issue complaints should go to a Federal district court. But whatever their remedies, one thing was clear, the present arrangement was not satisfactory even from the point of view of the vast majority of opponents to plan 12.

The most authoritative body which studied the operations of the NLRB, namely the Hoover Commission Task Force, headed by Mr. Owen D. Young and Prof. Robert Bowie, could not find one favorable word to say about the present arrangement. I challenge anybody to find a phrase or a word in this document which can be interpreted as endorsing, favoring, or supporting the independent status of the general counsel of the NLRB.

Repudiation, indeed. If ever a policy deserved to be repudiated it is the policy by which we set up an independent general counsel as an adversary against the Board.

And I want to make this point: A proceeding under the Reorganization Act of 1949 requires action by Congress. If there is repudiation, it is Congress repudiating its own acts and there can be no question about the propriety of that.

In point 2 the committee majority says "the plan would destroy public confidence in the impartiality of the administration of laws regulating labor-management relations. This statement, it seems to me, is an example of the classic fallacy of begging the question. The statement assumes the very thing that has to be proved, namely, that there now exists public confidence in the impartiality of the administration of laws regulating labor-management relations.

Where is the evidence of public confidence? And I emphasize the word "public." To be sure, there are employers who are opposing plan 12 and who have said some things construed as endorsing the impartiality of administration. I must say candidly that the employers who are opposing plan 12 are not concerned with impartiality but believe that Mr. Denham is on their side, and that they ought to stand by him in his moment of need. I say to these employers that they are kidding themselves. By and large, it seems to me that neither management nor labor has been the beneficiary of the existing disorganization in the administration of our labor relations law. And in supporting such broad and absolute powers in one man, they are doing themselves damage—and considerable damage.

As a matter of fact, there are employers who have looked askanse at the powers exercised by the general counsel. A delegation of employer witnesses in the hotel and restaurant industry viewed with considerable alarm the interpretations given by the general counsel. Read the hearings before one of the subcommittees of the House Committee on Education and Labor of the Eightieth Congress, chaired by Mr. HOFFMAN, of Michigan.

Mr. Bruce Anderson, representing the American Hotel Association, testified in reference to the general counsel that "an administrative agency threatens to overturn the labor policies of an entire industry by a ruling which disregards the intent of Congress exempting local businesses from the act" (p. 10).

In testimony before the Joint Committee on Labor-Management Relations of the last Congress, Mr. John H. Dorsey, an attorney representing employers, said, "It appears that the procedural right of appeal from dismissal by the regional director to the general counsel * * * is illusory * * * this type of procedure merely gives lip service to the right of appeal. It is, to say the least, dilatory, and affords the appellant no hope of relief." (Pp. 1–17, Committee on Independent Regulatory Commissions, Staff report on the NLRB). We have already referred to the fact that the subcommittee, chaired by Mr. HOFFMAN in the last Congress, found the general counsel's interpretation on the jurisdiction of the Board "not warranted either by the previous history of the interpretation and administration of the Wagner Act, by the debates on the bill, or by the terms of the act itself; that such interpretation is not necessary to effectuate the purposes of the act." (H. Rept. 2050, 80th Cong., 2d sess., 1948, p. 5.)

I don't suppose that labor feels that the administration of laws regulating labor-management relations in the United States has been exactly impartial. Labor, too, I understand, is part of the public.

Where, then, is this evidence of "public confidence" in the impartiality of the administration of laws regulating labor-management relations? There is no such public confidence. And there is no merit in the argument which pretends that there is.

Point 3 of the committee majority's position states "the plan would return the NLRB to the discredited role of grand jury, prosecutor and judge. Here again you find that same play on words which is intended to befuddle rather than to illuminate.

Let's deal with this grand jury, prosecutor, and judge business first. This language, as applied to regulatory commissions in general, and to the NLRB in particular, reveals, I regret to say, a sad and unfortunate ignorance about administrative law. As applied to the Board it makes no sense for reasons which I believe we cogently indicated in the minority report.

Take a look at the last 2 years of the Wagner Act in operation; 8,047 unfair-labor-practice charges were filed; 3 percent, or 242, were appealed to the Board.

In the same period, that is the last 2 years of the Wagner Act, 19,122 representation petitions were filed. In 2 percent, or 398, appeals were taken to the Board.

This means, then, that in only 3 percent of the unfair-labor-practice charges and 2 percent of the representation petitions was there any opportunity whatsoever for prejudgment.

The mistake, which is clear, the committee majority is committing is this—it thinks the five-member Board personally handles every unfair labor pactice charge which is filed with a regional office and personally handles every representation petition which a union or a management might file with the NLRB field office.

When you talk about a Board like the NLRB you mean one of two things. You mean the Board machinery with its many employees or you mean a three- or five-member Board.

If you are talking about the Board machinery they may be prosecutors but they can't be judges because only the five-member Board acts as the judge. If you mean the five-member Board you can't be talking about a prosecutor because the Board machinery, not the Board members as such, act as the prosecutor.

Now, to the extent that the Board does take a preliminary look at certain cases, before it actually examines the full record in connection with a decision, the Board is acting no differently than a court acts in granting a writ of certiorari. No responsible lawyer would say that the Supreme Court prejudges a case in a process of determining whether or not it is going to refuse that case. But the Board has told us that it is prepared to go even beyond the precaution that a court takes not to prejudge a case. It has told our committee, and there is no reason why the Board should not be believed, that every attempt will be made to deal with a case in this predecision stage in hypothetical form so as to effectively disguise the identifying facts if the case should ever come to the decision stage.

So much for the misconception of the NLRB as grand jury, prosecutor, and judge.

Now the majority report's point 3 also talks about the discredited role. It is quite interesting to examine the evidence upon which it bases this characterization. The text of the report and indeed the text of the hearings indicate that the majority re-

port relies upon the findings, primarily of the Smith Committee, which functioned in 1939 and issued its findings in 1940. Thus the major part of the indictment of the NLRB rests on material that is at least 10 years old.

Then, the majority also relies upon the instance of the Kaiser case in which the Board allegedly prejudged a case. No other specific case of prejudgment is cited, but what are the facts in the Kaiser case? The facts are that the Kaiser Co. was a prime contractor in our war effort; that the Board was subjected to legitimate pressure from a variety of war agencies who wanted to be assured that a Board action would not seriously impair one of our most important producers of war materials. Indeed, what the Board did was to assure itself that it had all of the relevant facts before proceeding. The considerations which the Board gave to the facts in the Kaiser case were not conducted in a smoke-filled room but were fully exposed to public view. We were in a war and every agency was adjusting its normal procedures to the exigencies of conducting a war. What is also significant is that the Kaiser Co. was being prosecuted and the Board in these extraordinary circumstances went, justifiably, to great lengths to see that it was not doing an injustice to a major war producer.

I think it is of more than passing significance that of all the thousands of cases which the Board has handled, an insider like Mr. Gerald Reilly, who volunteered this information on the Kaiser case, could not come forth with more instances of prejudgment.

He couldn't come forth with more instances because they did not exist.

The fact that the evidence with respect to the discredited role is 10 years old in one case, and 8 years old in another, conveniently makes it possible to bypass the application of the principles of the Administrative Procedure Act which were introduced subsequent to the instances cited.

The Administrative Procedure Act was passed in 1946. The report of the Attorney General's committee, upon which the act is based, was issued in 1941. And even before the recommendations of the Attorney General's committee and the force of law in 1941 to be exact, the NLRB undertook to revise its internal procedures so as to assure separation of the decision-making processes from the investigative- and complaint-issuing processes.

Point 4 of the committee majority's position is that the plan is defective in that it fails to specifically provide where the most important functions of the general counsel are to be lodged.

Frankly, I do not know how it could be made any clearer. The President's message with regard to the regulatory agencies Plan 7 to 13 distinguishes, as we have seen, between the substantive aspects of regulation which are left in the Board or Commission as a whole on the one hand and the day-to-day direction and internal administration which are transferred to the chairmen of the agencies on the other.

Plan 12, as I have demonstrated, deals with the day-to-day direction and internal administration functions of the general counsel and the Board in sections 1 and 2 and assigns them to the Chairman of the Board. Section 3 deals with the substantive aspects and assigns those to the Board as a whole. The Director of the Bureau of the Budget testified to this effect and the Attorney General's opinion is to this effect. The Board's statement clearly indicates who gets what powers.

I just can't see that after the President of the United States in his message and in his plan, after the Budget Director, after the Attorney General, and after the Board itself states clearly where the functions are, how it is possible to say that the plan fails to specifically provide where the most important functions of the general counsel are to be lodged. The most important functions of the general counsel are to be lodged in the Board—period.

And if we permit the plan to go into effect, the Congress will be on record as stating that its intent in approving Plan 12 was that the most important powers of the general counsel go to the Board and not to the Chairman. There is no doubt at all on that score and, if I may say so, this is an exceedingly frivolous objection.

Point 6 of the summary asserts "the plan would not accomplish the objectives of the Reorganization Act of 1949 relating to efficiency and economy." And with that point I also would like to treat point 12 which says, "the plan would not effectuate any substantial economy."

Here we have then a contention which says that plan 12 will not bring efficiency and economy in the administration of the Labor-Management Relations Act. It seems to me that the minority has clearly proved that there is confusion, that there is overlapping, that there is duplication. We have shown that cases are taken to hearing which in a sensible procedure should never have come to hearing. We have shown that Board personnel and Board members are engaged in wasteful motions of dealing with cases which could have been settled at a much earlier stage if there existed a unified structure. We have shown that an inordinate amount of time is being spent arguing with the general counsel. If eliminating such a situation does not bring efficiency and economy, I don't know what will.

Point 7 of the committee's summary asserts "the plan by concentrating the functions of grand jury, prosecutor, and judge in the Chairman and Board is contrary to sound principles of Government."

This point 7 is intimately related to point 3 which talks about "the discredited role of the NLRB as grand jury, prosecutor, and judge." The difficulty, I take it, is that in addition to returning the NLRB to a discredited role it is also contrary to sound principles of government.

Again I call attention to the play on the words "grand jury, prosecutor, and judge." As I think I have clearly demonstrated, the machinery of a regulatory commission bears not the slightest resemblance to a grand jury, prosecutor, and judge.

As to being contrary to sound principles of government, I'll stake the judgment of the Congress in enacting the Administrative Procedure Act in 1946 against the majority's position in this regard. The Administrative Procedure Act was enacted after many years of searching study by a distinguished committee of lawyers. It set up standards for the fair and equitable treatment of litigants in regulatory commissions.

The trouble with the committee's position on this is that it cannot understand that it is possible to have internation separation of functions and maintain a structure in which the same personnel in the agency do not act as grand jury, prosecutor and judge.

I offer the judgment of the Attorney General's committee on this issue. "We conclude not only that separation will not necessarily cure bias and prejudice, but that the requisite impartiality of action can be secured by the means set forth in this and the preceeding sections of this report." (Administrative Procedure Act in Government Agencies, Report of the Attorney General's committee, footnote, p. 60.)

On the contrary, it is well established that separation of power and authority as we have now in the NLRB as between the Board and the Counsel is contrary to sound principles of government in regulatory agencies. As far back as 1941, the Attorney General's committee with remarkable prescience anticipated the problems which would beset any regulatory agency which made a complete separation between the so-called prosecution and the decision-making stages.

Here are some of the misgivings which the Attorney General's committee expressed about separation in 1941:

1. The loss in consistency of action as a whole (p. 57).

2. To divorce entirely the investigating and enforcing arm from the deciding arm may well impart additional confusion (p. 59).

3. Separation would seriously militate against—the lifeblood of the administrative process—negotiations and informal settlements (p. 59).

4. Complete separation of functions would make enforcement more difficult (p. 60).

Opponents of plan 12 may well say that they considered these strictures against separation when they passed the Taft-Hartley law. Be that as it may, but there is no reason on this earth why we must insist on perpetuating our mistakes after experience has indicated we have made a mistake.

If anything is contrary to the sound principles of Government, I think it is pretty clear that what it is is the present separation of authority between the general counsel and the NLRB.

Point 8 of the summary says "the plan provides no satisfactory remedy for the alleged deficiencies in the present law, such as questions relating to jurisdiction, appointment of personnel, and appeals from refusal to issue unfair labor-practice complaints."

With respect to a remedy for the jurisdiction question, let me say that the remedy consists of having one Government position before the public and before the courts as to what the jurisdiction of the Board may be.

The position taken at any given time may not be entirely consistent with a position taken previously but at any one time the public and the courts will be confronted with only a single policy with respect to a given jurisdiction question. That is the remedy.

On the question of appointment of personnel. If you eliminate the office of general counsel the plan is clear that the major positions in the Board's machinery will be appointed by the chairman and subject to the approval of the Board. In the lower ranking positions section 2 of the plan permits the chairman to delegate his authority of appointment. There is no reason why the chairman or the Board members should be burdened with the appointing of every clerk and every stenographer in the agency, but there is every reason why the chairman with the consent and approval of the Board shall appoint such officers as regional directors and the heads of major administrative units. It seems to me an eminently satisfactory remedy; so satisfactory indeed that it is the common practice in all agencies of the Government.

Does plan 12 provide a satisfactory remedy on handling appeals from the refusal to issue unfair labor practice complaints? I think it does. It is a satisfactory remedy for a variety of reasons. First, appeals will be handled by personnel who have had no connection with originally instructing the regional director not to issue a complaint. The personnel handling the appeal will have no vested interest in standing by an earlier decision. Secondly, in the minutely small number of cases appeals which will be handled by the Board as such, (a) the Board will receive it only as a hypothetical case and (b)

an appeal considered by five men appointed by the President and confirmed by the Senate, it seems to me, is infinitely more desirable than an appeal rejected by the unlimited power of one man.

Point 9. "The plan, by giving the Board many additional duties would further delay its decision of cases."

All of the supporting testimony on this point was made by persons who either never had or who certainly do not now have intimate knowledge of Board operations. The testimony in support of this viewpoint is nothing but conjecture and speculation. There wasn't a concrete fact in all of the testimony. Ex-Board member Rielly couldn't give anything like a statistical answer to a question on the Board's current workload (Senate hearing, p. 54).

In contrast, Budget Director Lawton and Chairman Herzog, speaking for the full Board, supported factually their appraisal (1) that the Board was no worse off in its case load than any other regulatory commission; (2) that the Board members themselves were always current with their own work.

The distinguished chairman of our committee, the senior Senator from Arkansas, seemed to be impressed by the weight of this evidence for when Mr. Lawton concluded his testimony on this point he said, referring to the NLRB, "that is probably no different condition from what you would have in any regulatory body." (Senate hearings, p. 108).

As a matter of fact, the Board members will undoubtedly have a better opportunity to concentrate on the decision-making aspect of their work because they will be relieved of the day-to-day operating duties which are transferred to the Chairman and they will not be spending time in trying to persuade the general counsel to accept the Board's decisions as the last word. And if the Congress is generous enough to give the Board members additional legal assistants, we will have another source for cutting down the back-log.

Point 10. "The plan would subject the Board to pressures and influences in case handling at the initial stage."

In this, and in other points, there is either explicit or tacit assumption that the moral fiber of the general counsel is somehow superior to the moral fiber of the five board members. Isn't there some question about the general counsel being subjected to pressures and influences? Do we not need to look with alarm at the pressures and influences which the general counsel is subjected to in his unlimited power to refuse to issue complaints? Cannot the exercise of his power be diluted by outside pressures? Unless we assume that a general counsel is inherently constructed of such superior stock that he will not respond to such pressures or that he will remain immune to such pressures, this contention has no merit.

All of us have had experience applying pressures to Government agencies. I dare say that my experience is like that of every other Senate; that it is infinitely more difficult to get response to pressure from a board of 3 men, or 5 men, or 14 men, than it is from 1 man. If this allegation of pressure makes any sense at all I think that it has to be resolved in favor of the five-man board. As it happens, I don't think that the allegation makes any sense. We assume that every public official administers his responsibilities according to law. If he doesn't he should be removed.

Point 11. "The plan would bring about extensive litigation pending tests of its legality in courts."

Of all of the criticisms which have been made against plan 12, I must confess that I have the least patience and am less inclined to tolerate this one. It just occurs to me that every controversial piece of legislation which we have ever considered has always been faced with the threat of litigation. Of course, every aggrieved party exhausts every avenue of litigation that he can before he gives up. If we had listened to this sort of complaint about the Taft-Hartley law we would never have enacted it.

I want to say very seriously that the dignity and integrity of our body would be seriously impaired if we permitted such intimidation to alter our decisions one way or the other. If a bill is wise let's pass it. If it isn't, let's reject it. But let's reject it or pass it on its own merits, and not on the basis of whether there will be litigation or not.

We have already dealt with point 12 in connection with our consideration of point 6.

I would like to get into now what I consider to be some of the grievous errors in the text of the majority report. The majority's criticism of the NLRB under the Wagner Act on pages 4 and 5 rests, as I have indicated previously, on material which is 8 to 10 years old. The Kaiser situation which the majority uses as its only instance of prejudgment occurred in 1942 and there is even no basis for the charge of prejudgment in that case. The Smith committee report was issued in 1940 and rests on experiences in 1938 and 1939.

On page 4 the majority report asserts the action of the Supreme Court in passing on a writ of certiorari is in no way comparable to what the Board does when it takes a preliminary look at a case in the process of determining whether or not to issue a complaint.

A group of eminent lawyers, however, speaking in the Report of the Attorney General's Committee on Administrative Procedure does not agree with this observation in the majority report.

What is done in the issuance of a complaint by a regulatory commission says the Attorney General's committee "is wholly comparable to what a court does in the first stage of a show cause proceeding, or in the issuance of a writ of certiorari. No decision on the merits is made; the court or the agency merely concluded that the situation warrants further examination in formal proceedings. The ultimate judgment of the agency heads need be no more influenced by the preliminary authorization to proceed than is the ultimate judgment of a court by the issuance of a temporary restraining order pending a formal hearing for a permanent injunction." (Page 57.)

On page 5 the majority attempts to gloss over the necessity which the Board was confronted with when it delegated certain powers to the general counsel by saying that the "delegation carried out the intent of Congress as expressed in the legislative history of the Taft-Hartley Act." (Rept. No. 1516, p. 5.)

I see no basis in the legislative history for any such intent.

In the section of the House conference report which the majority report quotes, three functions are specified for which the general counsel has final authority; investigation of charges, issuance of complaints, and prosecution of such complaints before the Board. There is nothing in this section or any other section which says that the Board should delegate its authority over personnel to the general counsel.

But either the Board had to delegate authority to the general counsel or the general counsel had to delegate authority to the Board, else the situation would have been completely unmanageable. It would have resulted in two sets of personnel.

But even with the delegation the situation proved unmanageable and the Board had to withdraw part of its delegation to the general counsel. It found that its authority with respect to representation cases was being impaired and it withdrew a part of the delegation to the extent that now the Board wishes to have a veto power over the appointment of regional directors. The general counsel has publicly announced that he will not accept his slightly altered authority with respect to the regional directors.

The majority says on page 6 "that one man solely responsible with a spotlight of publicity directly on him knowing that he may be removed from office is not going to be arbitrary about refusing to issue complaints." Here again we see that double moral code operating, because there is an assumption that five men "with the spotlight of publicity directly on them" are going to be arbitrary about refusing to issue complaints. Is there anybody among us who would seriously contend that the spotlight of publicity is not on the NLRB? I would suspect that the NLRB is unprecedented in American history because now after 15 years following the enactment of a law there is still controversy and there is still the pitiless glare of publicity.

The majority report goes on to say, "furthermore, the general counsel has established his own advisory staff so that the decisions are made only after consultation with and upon the advice of competent experts." Let me tell you what an expert assigned by the Hoover Commission task force had to say about this consultation and advice within the general counsel's office. Prof. Walter Galenson of the Harvard economics department, designated by the task force, Owen D. Young, and Prof. Robert Bowie, said: "Policy deliberation on the general counsel's side is essentially different from that of the Board in that it represents discussion between a superior and his subordinates rather than among equals. A certain point of view is apt to be taken for granted at the outset and consideration centered not on the wisdom of an action, but on its legal validity and its political repercussions.

"An administrator is not likely to choose assistants whose basic philosophy differs from his own. Policy making by a single administrator may be more expeditious, for the administrator is free to dispense with superfluous deliberation, but, regardless of how organized, it is not to be confused with true group deliberation." (Staff report on the NLRB, p. 11–18).

I paraphrase. Don't confuse the general counsel's consultation with his own staff, with true group deliberation.

The Owen D. Young, Robert Bowie task force made the same observations. "A single official can consult his staff but does not have to convince others to make his views or conclusions prevail. The member of the commission must expose his reasons and judgments to the critical scrutiny of his fellow members and must persuade them to his point of view. He must analyze and understand the views of his colleagues if only to refuse them." (Task Force Report, p. 2).

On the same page we have still another instance of the double standard which the majority of the committee employs in appraising plan 12. They say, "We believe it preferable to have decisions made by a man appointed by the President with confirmation by the Senate than by an unidentified board appointee or committee who would be subservient to the Board." (P. 6, Rept. No. 1516).

This statement is made in connection with the procedure which the Board tentatively contemplates in handling requests for advice and analyzing appeals.

In the last analysis the Board is responsible for the decisions of any appointee or committee just as the general counsel is responsible for the acts of his subordinates. The Board members are also, as it happens, appointed by the President and subject to the confirmation of the Senate. I think it is preferable to have decisions made by five

men appointed by the President with confirmation of the Senate than by an unidentified general counsel appointee or committee which is subservient to the general counsel.

On page 7 of its report, the majority exaggerates the significance of a Board order. It says, "in complaint cases the Board's order often imposes heavy financial responsibilities on employers for back pay. Its negative orders (cease and desist) when enforced in the courts carry contempt of court sanctions when disobeyed."

In the first place a Board order does not impose heavy financial responsibilities upon employers. A board order can be violated with impunity until and if it is upheld in a circuit court. Moreover, in back pay computations, after the circuit court has upheld the Board's order, the Board subtracts monies earned by the aggrieved employee during the period he was discriminated against from the total back pay bill. Secondly, its negative orders are subject to review with respect to law and fact by the courts. It cannot be repeated too often that the authority of the courts to review Board orders stands as a bulwark against any possible capricious or unjust action by the Board. It is mistaken to give a subordinate position to court review of Board orders. As we have already said, the Board's orders probably have less force as orders than the orders of the other regulatory commissions.

I have already challenged in my earlier remarks the alleged public confidence which the present arrangement has and which the majority report repeats on page 7. For example, a scholarly study by Prof. Donald H. Wallett, Labor Relations and Federal Law, published by the University of Washington Press in 1949, asserts, "Administratively the double-headed character of the investagiative hearing and enforcement machinery of the NLR Act should be eliminated with the general counsel losing his independent status and returning to a position under the NLRB." (P. 146). This doesn't sound like a vote of confidence in the present arrangement.

An editorial note in the Iowa Law Review for May 1949 asserts: "Adopting the premise that expertise, prompt disposition, uniformity, and flexibility are essential to a desirable administrative procedure, the past months have shown that the Taft-Hartley Act has failed to provide the minimum essentials and that some revision is necessary to asure a petitioner under the act that he will obtain the full benefits of the administrative process to which he is entitled." (May, 1949, p. 672).

There are, it seems, competent, objective, able students who have expressed sharp doubts that the present arrangement is as good as the opponents of plan 12 say it is.

In its discussion of the Administrative Procedure Act the majority persists in carrying on its semantic barrage. Referring to the Administrative Procedure Act, the report, on page 7, says "the Act does not deprive an agency of any dual function of prosecutor and judge." The analogy between a regulatory commission and a prosecutor-judge is misleading and inaccurate as we have said time and time again. If the analogy had any merit we now have a law on the statute books, the Administrative Procedure Act, which is designed to eliminate any danger to litigants if you have one person or agency acting really as prosecutor and judge. This is the law which the Congress passed, applicable to all regulatory commissions including the NLRB, to insure full protection and to provide, as the senior Senator from Nevada and the Chairman of the Judiciary Committee, said, "a comprehensive charter of private liberty and a solemn undertaking of official fairness."

The majority report says, on page 10, "it has not been demonstrated to the committee * * * that the plan will bring about any substantial saving of money." And then it goes on to criticize the President's statement that although the plan may not result in substantial immediate savings, the benefits in improved operations will result in a reduction in expenditures as compared with those that would otherwise be necessary.

As a matter of fact this is the statement that the President has made with respect to all of the plans in this category. Not only the President has said this but the Hoover Commission in its report on independent regulatory commissions has said it as well. "The savings that could be anticipated from the above recommendations cannot be reckoned in the normal manner * * * but the real savings are to be found elsewhere, delay and inefficiency in regulation involves large costs to the regulated industries themselves which must be passed on to the public by one method or another. Expedition will mean vast savings as well as better justice."

It seems to me that the elimination of the duplication and overlapping and confusion which we have already spelled out in great detail should result in substantial savings. I think what the majority is complaining about, is this: we refuse to look into the crystal ball and spell out in dollars and cents what the savings will be.

With respect to efficiency the majority asserts that the efficiency accomplished by the plan could be harmful. The majority goes on to say that it is inevitable that the philosophy of the Board or its Chairman would become the philosophy of all the employees.

Now, it is clear that the philosophy of the general counsel has become the philosophy of virtually all employees of the Board. They have no choice. He is their supervisor and they are subject to his will. Moreover, the general counsel has not provided any internal separation, where he might at least be assured that he would be getting independent judgments from within his own staff on issues that might be in conflict within his own staff.

The Taft-Hartley law, the Administrative Procedure Act, the Board's own intentions to initiate procedural changes indicate that there will be effective internal separation if plan 12 is permitted to operate.

The net effect at worst is that the general counsel now imposes his viewpoint with respect to cases which he refuses to issue complaints. And it is. I'm willing to stake the philosophy which is developed out of the discussion among five equal Board members, against the philosophy which is established by one man.

The majority report disparages the NLRB Chairman's judgment that the workload under plan 12 would be manageable—at least as manageable as the workload of the other regulatory agencies, in which there is no separation of authority.

And what this issue of workload gets down to is, Whom are you going to believe? Are you going to believe the judgment of the Board members and the Bureau of the Budget, both groups with intimate knowledge of Board management problems, or, are you going to believe the judgment of people who have only the most casual connection with the detailed day-to-day operations of the Board? I can't see that there is any choice. The weight of the evidence on workload is clearly in favor of those who have the knowledge and information, and they can be only the Board members and the Bureau of the Budget.

The majority report concerns itself again with the question of legality. It does not say that plan 12 is illegal under the Reorganization Act of 1949, but it says there is some doubt about it. I don't see that there is any doubt about it. The majority makes the point that plan 12 is in effect substantive law. I just can't see it. Plan 12 does not alter by one iota the unfair-labor practices of management, the unfair-labor practices of labor, the injunction proceeding, or any of the fundamentally substantive provisions of the Taft-Hartley law. The responsibilities of Government, of management, of labor, remain the same. The only thing changed is the officer who performs certain functions in connection with these procedures.

I don't think I can do any better than the Attorney General has in dealing with this question that plan 12 is a change in substantive law, and, therefore, illegal under the Reorganization Act. The very purpose of the Congress in passing the Reorganization Act was to authorize the President to transfer functions between agencies and within agencies when, after investigation, he finds that such a transfer will accomplish one or more of the purposes enumerated in section 2 (a).

The majority further amplifies its point that plan 12 is vague as to where the powers of the general counsel go. My point-by-point analysis of the President's message, of the plan itself, the statement of the Attorney General, the testimony of the Director of the Bureau of the Budget, the grudging acknowledgment of ex-Board Member Reilly, all add up to one thing—the investigative so-called prosecuting functions of the general counsel go to the Board; the housekeeping and day-to-day operations only go to the Chairman, and then only under the supervision of the Board.

Playing around with definitions of "executive" in Bouvier's Law Dictionary and Funk and Wagnalls New Standard Dictionary as the majority report does, it seems to me are not adequate enough to offset the judgments developed by the overwhelming weight of the testimony and of the record. Indeed, it seems to me a confession on the part of the majority that its position in this respect is weak, if in the face of the law which has been built up on the subject it seeks recourse to dictionaries.

As a matter of fact the majority report did not need to go any further than the Hoover Commission report on regulating commissions to find a definition of executive in the appropriate context of this discussion.

On page 3 of the Hoover report, you can find executive duties defined as "those that can be performed far better by a single administrative official."

The reference to the Lincourt case on page 13 of the report has nothing at all to do with the issue at hand. All that decision says is that any action of an executive branch of the Government from a certain viewpoint can be considered administrative. It simply categorizes the whole range of executive activity. The decision is not germane to our debate.

In its discussion of the point that plan 12 does not remedy deficiencies of the present act the majority contends that the answer lies in legislative clarification. But if there is going to be any legislative clarification it will have to clarfy every single provision of the Taft-Hartley law. The issue is not clarity; the issue is whether at any give time there will be either one or two interpretations of a given provision of the law. Under the present arrangement you have two interpretations. Plan 12 will insure that there will be only one interpretation. To be sure there is no guaranty that there necessarily will be consistency in the interpretations over a period of time but there will be no question in anybody's mind what the Board stands for at any particular time.

While the difficulties of interpretation have developed in the area of jurisdiction they can just as well develop in respect to any other provision of the Taft-Hartley law. It is just impossible to frame a statute which will be so air-tight that it can be applied automatically to every case and every situa-

tion. If it isn't jurisdiction, it can be secondary boycott; if it isn't secondary boycotts it can be free speech; if it isn't free speech it can be any other of several hundred fine points in the statute. The existing separation of authority puts a premium on public conflict and disagreement. Plan 12 will eliminate this confusion and substitute one judgment where two now exist.

The vast differences which the majority points to on page 15 between the NLRB and other regulatory agencies simply do not exist. To support this we have the weight of the Hoover Commission, the Task Force Report, the Attorney General's Committee on Administrative Procedure, all of which class the NLRB as an independent regulatory agency. Nowhere in any of these documents will you find any statement which distinguishes in any fundamental sense, the Board from other regulatory agencies. The majority offers no evidence of comparable weight to support its contention that the NLRB is not like any other regulatory agency.

Then the majority report goes on to say that Congress deliberately singled out the NLRB for special treatment in the Taft-Hartley Act and "nothing has transpired since the Taft-Hartley Act to change the Congress' judgment on that issue." Let's grant that the Taft-Hartley law singled out the NLRB for special treatment. But how, in the face of the overwhelming impact of the facts showing conflict between the Board and the general counsel, not only internally but public conflict from almost the very moment that the act was passed, how is it possible to say that nothing has transpired since the Taft-Hartley Act to change the Congress' judgment?

The task force report had not one word to say on the basis of its detailed investigation that can be construed as justifying the existence of the independent general counsel. Scholarly works have made devastating criticisms of the sawing in half of the NLRB A great deal has happened since the passage of the Taft-Hartley Act. And one thing that is crystal clear is that whatever justification exists for the establishment of the office of the independent general counsel originally, it has not worked out and we have had bad administration of a public law.

The most striking thing about the criticism that the majority has leveled against plan 12 is its lack of substance. Go through the majority report. Read the 12 summary points on pages 1 and 2. And what hits you in the face is the reliance on such vague and indefinite bogies as alleged public confidence, the revival of the shiboleth "grand jury, prosecutor, and judge," the threat of litigation, delay. There is hardly a major point made by the majority which rests on some collection of verifiable facts. Most of the argument is based on speculation, hearsay, and anticipation of horrible things to come.

Mr. HUMPHREY. Mr. President, the majority's summary says:

> The plan goes beyond the Hoover Commission's recommendations affecting the Government's regulatory agencies. The Hoover Commission made no specific recommendation concerning the NLRB.

First of all, let us clear up this connection between plan 12 and the Hoover Commission. No proponent, as far as I know, has said that that part of plan 12, which restores the powers of the general counsel to the NLRB is specifically mentioned in the Hoover Commission report. We want that to be clear. Secondly, it is clear that the way in which the Senators who are supporting the majority position are voting on other reorganization plans that whether or not the Hoover Commission recommended a particular plan is not the controlling fact in their vote. I want that to be noted. For example, the Citizens' Committee for the Hoover report, speaking through its research director, said there was no question that plan No. 1 dealing with the Treasury Department "fully accords with the Hoover Commission's recommendations." But the majority, and it is almost the same committee majority, opposing plan 12, is against plan 1.

Indeed, the chairman of our committee, the distinguished senior Senator from Arkansas, has himself said that he cannot be bound by the recommendations of the Hoover Commission. I think everyone has that right. In an addendum to the Hoover Commission report on Federal business enterprises, the chairman of our committee asserts that—

> In view of the dual position which I occupy as a member of the Commission and also as a Member of the Congress who has the duty of considering and acting upon the reports and recommendations, I feel constrained to reserve the right to further consider in my legislative capacity all recommendations made by the majority, and in such capacity to oppose those which in my judgment may be unsound or impractical, or which may be determined to be inadvisable. (P. 129.)

The Reorganization Act of 1949 makes no mention and indeed does not require that every reorganization plan be specifically called for in the recommendations of the Hoover Commission. So that whether or not the Hoover Commission has specifically recommended a plan is not a controlling fact with respect to the legality of the plan and with respect to the advisability of the plan.

But it can appropriately be said that plan 12 is in accord with the Hoover Commission recommendations. It certainly is not contrary to the Hoover Commission report as the majority states on page 9 of its report. That statement, by the way, is completely erroneous. I challenge anybody to find in the recommendations of the Hoover Commission a statement implicit or explicit which bars the reform that plan 12 seeks to make in the administration of the NLRB.

Mr. President, I contest the validity of the comment and statement in the majority report on page 9, where it says that plan No. 12 is contrary to the Hoover Commission report.

I have in my possession a copy of a letter which I received from Prof. James K. Pollock, chairman of the department of political science of the University of Michigan. The substance of the letter is contained in this paragraph:

> I cannot, of course, speak for the Commission but as a former commissioner I can see nothing wrong with the President's proposal. I have indicated in a letter to Senator McCLELLAN, a copy of which I enclose, that I favor approval of all of the President's 21 proposals.

Professor Pollock was a distinguished member of the Hoover Commission. He is a reputable scholar and an outstanding political scientist who has recently been elected president of the American Political Science Administration.

Mr. President, I ask that this letter be included in the RECORD at the conclusion of my remarks, as well as a copy of the letter attached.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

(See exhibit 1.)

Mr. HUMPHREY. Moreover, beyond enumerating the nine independent regulatory commissions to which its recommendations apply, there is no reference at all on the Hoover report to specific regulatory commissions, with respect to Hoover recommendation No. 1, to wit:

> We recommend that all administrative responsibility be vested in the Chairman of the Commission. (P. 5.)

To say, therefore, that the Hoover Commission made no specific recommendation concerning the NLRB ignores the crucial fact that the Hoover Commission made no specific recommendation with respect to any regulatory commission on the subject of recommendation No. 1. It is certainly as valid to say that the Hoover Commission did not exclude the NLRB from the scope of its recommendation.

Now, let us look for a moment at the context against which the Hoover Commission made its recommendations. Judging by the nine commissions which the Hoover Commission included in its categories of independent regulatory commissions, it is fair to say that with the exception of the NLRB all of these independent regulatory commissions are characterized by a unified structure.

In order to bring the NLRB in line with the organizational pattern consistent with the other regulatory commissions we first have to eliminate the separation of authority which means abolishing the office of general counsel.

When we have done that, we are in a position to apply the recommendation of the Hoover Commisison, that is, to vest all administrative responsibility in the Chairman of the Commission. That is, in effect, what plan 12 does, "it restores a unified structure to the NLRB; (2) it gives the Chairman the responsibility for the day-to-day operating functions."

In view of the fact that the hour is late, I submit for the RECORD the balance of my analysis of plan 12 as it is affected by the Hoover Commission report. In my remarks there is reference to a letter from NLRB Chairman Herzog.

I ask that it be printed as an exhibit.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

(See exhibit 2.)

Mr. HUMPHREY. Mr. President, I ask that my prepared remarks which have not been delivered be printed in the RECORD.

The PRESIDING OFFICER. They will have to be printed in the form of a statement, but they will be printed, if there is no objection.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

> Let us look at that section of the text of the report which deals with the Hoover Commission recommendations. The Chairman of the Commission on Organization of the Executive Branch of the Government states in his telegram that this subject (i. e., the separation of authority between the general

counsel and the Board) "was never discussed by the Commission."

Circular Letter No. 2 of the Citizens' Committee for the Hoover report asserts, on page 2, "the Commission informally considered, but made no specific recommendation on the major policy issue raised in plan 12 by the proposed abolition of the post of the independent general counsel of the NLRB."

The majority report asserts, "a search of the report of the Hoover Commission and the task force report on regulatory commissions, on which the Commission's report is based, proves clearly that the abolition of the independent office of general counsel as provided for by Reorganization Plan No. 12 was never contemplated by either."

Now, it is clear that the Hoover Commission did not recommend the abolition of the general counsel's office. But as to whether it was contemplated or not, I quote again the circular letter of the Citizens' Committee of the Hoover report: "The Commission informally considered * * *, the major policy issue raised in plan No. 12."

The majority quotes another section of the Hoover report: "The Congress is engaged in revising labor policies which will affect some of these agencies. The Commission can make no recommendation as to their organization until these questions are settled." I want to call your attention to the concluding phrase "until these questions are settled." What the Hoover Commission is talking about is the 1949 debate on a revision of the Taft-Hartley law. That debate is over for the time being. These questions are settled for the time being. We are not now engaged in any debate on consideration of over-all revision of the Taft-Hartley law. There is no reason, therefore, why we cannot now make a judgment on the issue of separation of authority.

The majority report says, on page 9, "further evidence that plan 12 is contrary to the Hoover Commissions' report is contained in a statement issued April 13, 1950, by the Citizens' Committee for the Hoover report. 'At the same time the plan raises issues which are not wholly organizational but are matters of national political and economic policy. * * * In this respect the plan goes beyond the terms of reference of the Citizens' Committee as stated in its charter and by-laws, in such a way as to render complete endorsement or disapproval of the plan equally impossible.' "

Now, let's examine that. The majority says that plan 12 is contrary to the Hoover Commission report and cites in evidence a statement issued by the Citizens' Committee for the Hoover report. I again challenge the majority or anybody else to find in this statement or in any other statement issued by the Citizens' Committee, or in any statement issued by the Hoover Commission itself, or in any statement issued by the ask force, that plan 12 is contrary to the Hoover Commission report.

There is no such statement and it cannot be found. Even in the section quoted by the majority of the Citizens' Committee says it cannot "render complete endorsement or disapproval." In short, the Citizens' Committee is neutral on the issue.

Secondly, you will notice that the Citizens' Committee is careful to say "the plan goes beyond the terms of reference of the Citizens' Committee." It goes beyond the terms of reference of the Citizens Committee, and there is no statement that says it goes beyond the terms of reference of the Hoover Commission itself. The Citizens' Committee also states its reasons and says the matter involved is national, political, and economic policy. This is, if the Citizens' Committee will forgive me, gobbledegook for saying that they don't want to get involved in an issue which is as controversial as this one is. Well, I agree. It is controversial. But I have never known the United States Senate to retreat from an issue because it is controversial. And, although the issue has been surrounded with heat it does not detract from the essential character of the problem with which we are confronted, namely, how to improve the efficiency and administration of the NLRB. In that connection, I have asked unanimous consent to insert in the RECORD a letter from Paul M. Herzog, Chairman of the National Labor Relations Board, which appears as exhibit 2.

On page 10 the majority says the task force report is "somewhat critical of the type of separation created by the Taft-Hartley Act."

Let me read to you the "somewhat critical" observations of the task force report. The task force report says that the position of the general counsel has caused them "considerable concern." They quote Mr. Denham's statement that his powers are "broad and absolute and his authority final to an outstanding degree seldom accorded a single officer in a peacetime agency."

The task force says the general counsel's office "marks a departure from previous administrative practice. If permitted to set a pattern for future Government organization it may lead to a diffusion of responsibility."

Listen to some of the other things they say. The general counsel is in " a peculiarly exposed position"; "it is inevitably subject to heavy pressure from all sides and lacks the protection of either a multiheaded agency or an executive department in resisting such pressures." You see now, the task force says that contrary to the majority's position, the general counsel is more vulnerable to pressure than a board.

The task force says "the administrative position of the general counsel is also anomalous." They cite the internal administrative problems which the arrangement has created, pointing to the fact that the unit which anwsers requests for advice is the same unit which hears appeals if the litigant does not choose to abide by the advice.

The task force says "that our conclusion is that the present position of the general counsel is an unstable one."

When the task force report, headed by Owen D. Young and Professor Bowie, uses such characterizations as "division of responsibility," "exposed position," "subject to heavy pressure, "anomalous," "unstable," it is, according to the majority, only being "somewhat critical."

The majority quotes a section of the task force report in support of its statement that the task force did not recommend abolition of the general counsel. The task force recommended a council of labor created by Executive order to include the Secretary of Labor and the general counsel as well as other Federal officials concerned with labor problems.

Let us examine that statement. I think our minority report dealt with this very effectively. As the task force says in the part quoted by the majority on page 10, their recommendation "represented a compromise between the present independent status of the general counsel and his subordination to a department head."

As we said on page 30 of our report actually the very content of the proposal for a council of labor recognized that it dealt with a difficult issue and only indirectly and partially solved the immediate issue. The council of labor was proposed "to coordinate Federal labor policy." For a recommendation directly addressed to the separate general counsel issue one must look at the last of the four major conclusions of the task force which state "(4) the office of general counsel should not be left independent of both the Board and the executive department but should be integrated more closely into one or the other according to the functions to be performed."

With respect to placing the general counsel in the Department of Labor or the Department of Justice, the task force declared "each has serious draw-backs" (task force report p. 140). This leaves only the conclusion that the general counsel should be a subordinate official of the Board and that is exactly the effect of plan 12.

Let's tie up in a package the answer to this objection that plan 12 somehow violates the report of the Hoover Commission. (1) It is completely mistaken to say that plan 12 is contrary to the Hoover Commission Report. There is no evidence whatsoever for this objection. (2) The Task Force Report is not "somewhat" critical. It is critical in a clearly devastating fashion. (3) True, the Hoover Commission Report itself does not recommend abolition of the office of general counsel, but plan 1 is directly in line with the Hoover Commission's recommendations, and my distinguished colleagues are opposed to plan 1. So that clearly my learned opponents do not regard the Hoover Commission as the last word on reorganization. I have already referred to the fact that the able chairman of our committee, the senior Senator from Arkansas, specifically reserved the right not to be bound by the Hoover Commission recommendations, although he was a member of the Commission and may not have dissented in the Commission report itself.

I am not being critical of him for this. I would have probably done the same thing. My point here is not criticism; my point is that we are not limited to the confines of the dots and commas of the Hoover Commission Report. It is an admirable document and has set the pattern for much worthwhile reorganization, but we are not limited, neither those for plan 12 nor those against plan 12, to the Hoover Commission recommendations in making our own recommendations.

Mr. President, I now conclude:

If plan 12 is going to be acted on by this Congress on the basis of light rather than heat, I say that we have no alternative but to turn down Senate Resolution No. 248 and thereby permit the reorganization of the NLRB in accordance with plan 12.

EXHIBIT 1

UNIVERSITY OF MICHIGAN,
DEPARTMENT OF POLITICAL SCIENCE,
Ann Arbor, May 3, 1950.

Hon. HUBERT H. HUMPHREY,
Committee on Expenditures in the Executive Departments,
United States Senate,
Washington, D. C.

MY DEAR SENATOR: Your letter of April 27 has just been received, and I am replying immediately.

Since the Congressman from my district made an inquiry similar to yours, I believe it will serve your purpose if I enclose a copy of my letter to him. This was, of course, a letter between us, but I have no objection to your using the information contained in the letter.

As I point out in the letter, the Hoover Commission did not make a recommendation on this particular point, but the President's plan is in consonance with the general principles of organization which we have proposed for universal application to all departments and agencies.

I cannot, of course, speak for the Commission, but as a former commissioner I can see nothing wrong with the President's proposal. I have indicated in a letter to Senator MCCLELLAN, a copy of which I enclose, that I favor approval of all of the President's 21 proposals.

You are kind to offer your congratulations on my being president of the American Political Science Association. We are honored to have you as a member of the association. It means a great deal to have an active political scientist in the greatest deliberative chamber in the world.

Sincerely yours,

JAMES K. POLLOCK.

APRIL 5, 1950.

Hon. EARL C. MICHENER,
House of Representatives,
Washington, D. C.

MY DEAR CONGRESSMAN: I have your letter of March 29 requesting my views on Reorganization Plan No. 12 as submitted by the President. I have given the matter considerable thought and have also convassed the views of several of my colleagues who are well informed in this field. I submit herewith my views on the matter.

Although the Hoover Commission did not deal specifically with the administrative structure of the NLRB, it supported the general structure of the independent regulatory boards and commissions and generally supported the able task force report prepared by Robert E. Bowie and Owen D. Young.

The task force reported as follows on the independent status and broad and absolute final authority granted to the general counsel:

"The existence of such an office, independent both of the Federal departmental structure and of the Board, marks a departure from previous administrative practice. If permitted to set a pattern for future Government organization, it may lead to a diffusion of responsibility.

"Such an official is in a peculiarly exposed position. In view of the wide powers of the office, it is inevitably subject to heavy pressure from all sides, and lacks the protection of either a multiheaded agency or an executive department in resisting such pressures." (Pp. 139–140.) (See also staff report on NLRB II, 25 ff., and IV, 13 ff., furnished in the typescript to the Congress.)

The proposal to place the general counsel within the administrative structure of the NLRB would terminate the anomalous situation in which both the independent general counsel and the Board have policy-making functions. Where policy-making is divided in carrying out the same administrative function, conflict and inefficient operation inevitably result, as is shown by developments since the Taft-Hartley Act has been in effect. Moreover, the Hoover Commission was unanimous in its belief that unity of command and responsibility was a requisite of efficient administrative organization.

Accordingly, I feel that the proposed reorganization of the NLRB, although not specifically recommended by our Commission, is by implication in line with other Commission proposals. I therefore urge you to support Reorganization Plan No. 12 and vote against House Resolution 516.

The opposition of the chamber of commerce as presented in the resolution you included in your letter, is based on the allegation that Reorganization Plan No. 12 would emasculate the Taft-Hartley Act and return us to the days of the Wagner Act. Such is not the case. Merely that portion of the act which set up an administrative structure which has given rise to conflict and divided responsibility would be altered.

The other argument of the chamber of commerce concerns the mingling of the functions of prosecutor and judge. The Hoover Commission did not object to this in any regulatory board. In my opinion, this difficulty has been adequately corrected by the Administrative Procedure Act which set up an independent corps of hearing examiners.

Moreover, as the task force report points out, "only in part are his (the general counsel's) present duties genuinely prosecution; some parts are administrative and parts are a species of rule or policy making." (P. 141.)

These policy-forming duties of the general counsel are the ones over which conflicts with the Board have arisen.

Referring to Taft-Hartley, I think it is relevant to point out that the amendment redrafting the Taft-Hartley Act offered by Senator TAFT for himself, Senator SMITH of New Jersey, and Senator DONNELL, of Missouri, passed by the Senate in the first session of the Eighty-first Congress included this language:

"The Board shall appoint an executive secretary, and such attorneys, examiners, and regional directors, and such other employees as it may from time to time find necessary for the proper performance of its duties" (sec. 4).

In closing, I should like to add that, in my opinion, good administration requires the approval of the reorganization plan. The politics of the matter, on the other hand, should not override the rectification of administrative structure which is clearly in accord with the reasoning of the Hoover Commission.

Sincerely yours,

JAMES K. POLLOCK.

FEBRUARY 9, 1950.

Hon. JOHN L. MCCLELLAN,
United States Senate,
Washington, D. C.

MY DEAR SENATOR: I have your letter of February 6 enclosing a copy of your bill and the remarks you made in the Senate at the time of its introduction. I have studied this material and am glad to give you my own views regarding the proposal.

I am leaving in a few days for Britain to make a survey of the forthcoming British election for one of the foundations. This means that I shall not be back in the country until early in March and hence could not be available to appear before your committee prior to the second week of March. I rather expect to be in Washington from the 10th through the 12th of March and although I have a good many engagements already set up in connection with the work of the Political Science Association, I might be able to squeeze in at least a brief time to appear before your committee if you think that I would be of any help.

Now let me give you a few brief comments. I like the joint committee idea and the attempt to eliminate many of the tedious hearings in the subcommittees of the House and Senate. I am ready to go along with you on this part of the bill. But I must take exception to the feature of the bill which seems to me to be destructive of the principle of the executive budget.

Under your bill the agencies would be required to furnish duplicate copies of all budgetary requests submitted to the Bureau of the Budget plus their detailed justification thereof. I assume that the Bureau of the Budget would oppose this revealing of agency requests before the Bureau has been able to work out an executive budget. I also feel that such a procedure would tend to take away the incentive for the Bureau to bring about reductions in estimates and to exercise central managerial control for the purposes of management improvement. I am not at all clear how the examination of these initial agency requests could help Congress to make greater cuts in agency estimates. I cannot see how savings springing from managerial improvement will be fostered by joint committee and its staff operating in the budget-preparation stages. Congress is the policy-making body and it should focus its attention primarily on improvement in this field and in tightening up its means for holding the Executive responsible for managerial improvement. Real retrenchment so far as Congress is concerned can only come through retrenchment in programs and policies.

Thus, although I am strongly in favor of Congress implementing its own Reorganization Act more adequately by the development of better staffs, nevertheless it would be a misplacing of emphasis to have these staffs utilized or to interfere with what seemed to me to be executive activities.

You might find it helpful to solicit the opinions of other political scientists who are especially competent in the field of fiscal policy and administration. Such persons are Prof. Harven Mansfield, department of political science, Ohio State University; Prof. V. O. Key, Yale University; Prof. John D. Millett, Columbia University; and Prof. Roland Egger, University of Virginia.

Sincerely yours,

JAMES K. POLLOCK.

EXHIBIT 2

NATIONAL LABOR RELATIONS BOARD,
May 9, 1950.

Hon. HUBERT H. HUMPHREY,
Senate Office Building,
Washington, D. C.

DEAR SENATOR HUMPHREY: In your letter of May 3, 1950, you request the Board's comments on a portion of the majority report on reorganization plan No. 12 of 1950, by the Committee on Expenditures in the Executive Departments.

Your letter alludes to a reference by the majority to a letter this Board submitted to the Committee in June 1949, in response to a request by the chairman of the Committee for the Board's comments "relative to the application of the various recommendations and textual discussion" of the Hoover Commission which appeared to affect this agency.

The majority report attempts to rely in part upon this Board's statement of June 1949 to support the proposition that the Hoover Commission report did not recommend transfer of the general counsel's functions and abolition of the Office of General Counsel. But we have at no time contended that the Hoover Commission did make such recommendation. Our testimony before the House and Senate Committees on Reorganization Plan No. 12 will bear that out. It has been our emphatic position, however, in testifying in favor of plan 12, that it is in conformity with the fundamental purposes of the Hoover Commission recommendations as to all regulatory commissions.

This position is in no wise inconsistent with our letter of June 1949 to the committee. That letter noted that the committee's "primary responsibility" is "to coordinate across-the-board recommendations designed to improve general management, personnel management, administrative services, and budgeting and accounting." It stated that "the committee is particularly concerned about reductions in personnel and in operating costs resulting from reorganizations effected." It suggested that the committee would "like to be fully informed as to economies and efficiencies achieved through administrative actions and reorganizations effectuated to accord with the Commission's recommendations."

Accordingly, within the limited frame of reference suggested by the committee, our comments were intentionally confined to a report on the extent to which this Board, operating within the structure of the existing Taft-Hartley Act, had achieved conformity with the specific Hoover Commission recommendations, and the steps that had been initiated to accomplish further compliance. Our reply, as suggested by the committee, was devoted primarily to the commission's recommendations in respect of general management, personnel management, and performance budget.

As to the Hoover Commission's report on independent regulatory commissions, only the general recommendations applicable to all commissions appeared to affect this Board. It seemed to the Board that the most important of these was the proposal that "all administrative responsibility be vested in the chairman of the Commission." In compliance with the limitations contained in the committee's request, we merely noted that the 1947 amendments to the National Labor Relations Act had divided administrative responsibilities between the five-member Board and its independent general counsel. We

further indicated the character of the authority that had been delegated to the chairman under existing structure.

The May 1949 request of the committee did not invite the value judgments of this Board on the recommendations of the Hoover Commission. Such comments would, in any event, have seemed especially improper for us to venture at the time of the Board's reply, for the Senate was at that very time engaged in debating proposed amendments to the National Labor Relations Act. Further, the Board had on February 2, 1949, a few months before receiving the committee's request, appeared through its chairman before the Senate Committee on Labor and Public Welfare and testified at length on S. 249, a bill then under consideration by the Labor Committee. Among other things, that bill specifically provided for the elimination of the independent office of general counsel and the creation of a structure, in its essential form, identical to that proposed by plan No. 12 of 1950. Our unqualified and unanimous opposition to the existing independent office of general counsel was thus already a matter of public record. See February 2, 1949, testimony of Chairman Paul M. Herzog, hearings before the Committee on Labor and Public Welfare, United States Senate, pt. I, p. 116, 137, 173–177, 187–188). It presumably did not need reiteration in our June reply to the committee's letter, even had we deemed it relevant or proper to include it there.

If called upon today, as we were in 1949 by the Senate Committee on Expenditures, to comment on the effect of the specific recommendations of the Hoover Commission on the present structure of the National Labor Relations Board, we would make the same reply as we did a year ago. Indeed we said just that in the following portion of our recent testimony before the Senate committee in support of plan No. 12:

"Efficient administration is not possible without a single and direct line of authority, whether in an executive department or in a regulatory commission. That is what the National Labor Relations Board does not have today, and would not have tomorrow if nothing more were done than to vest in the Chairman the few administrative functions which remain in the five Board members under present arrangements. Such a program would accomplish little at the National Labor Relations Board, however much it might add to the efficiency of the other six regulatory commissions which are not now saddled with the basic split in authority."

Very sincerely yours,

PAUL M. HERZOG, *Chairman.*

RECESS

Mr. McFARLAND. Mr. President, I move that the Senate stand in recess until noon tomorrow.

The motion was agreed to; and (at 6 o'clock and 13 minutes p. m.) the Senate adjourned until tomorrow, Thursday, May 11, 1950, at 12 o'clock meridian.

NOMINATION

Executive nomination received by the Senate May 10 (legislative day of March 29), 1950:

COUNCIL OF ECONOMIC ADVISERS

Roy Blough, of Illinois, to be a member of the Council of Economic Advisers.

House of Representatives

WEDNESDAY, MAY 10, 1950

The House met at 11 o'clock a. m., and was called to order by the Speaker pro tempore, Mr. McCORMACK.

The Chaplain, Rev. Bernard Braskamp, D. D., offered the following prayer:

God of all grace and goodness, we pray that during this day our souls may be the sanctuary of Thy presence, Thy peace, and Thy power.

We are seeking Thee in this moment of prayer because Thou hast first sought us. In our great need we have no one else to go to. Inspire us now with a more radiant faith in Thy wisdom and power to meet all our needs.

May our hearts be aglow with the enthusiasm and inspiration of high ideals and a vision of the splendor and glory of the kingdom of brotherhood and good will among men.

Grant that these ideals and this vision may be gloriously fulfilled and to Thy name we shall ascribe all the praise. Through Jesus Christ, the Prince of Peace. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

PERMISSION TO ADDRESS THE HOUSE

Mr. CURTIS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

APPOINTMENT OF AGRICULTURE ATTACHÉ

Mr. CURTIS. Mr. Speaker, I am informed by the Office of the Secretary of Agriculture that the State Department has confirmed the appointment of one Wolf Ladejinsky for the position as agriculture attaché to the American mission in Tokyo.

In judging the sincerity and truthfulness of the State Department's vehement denials to charges of foreign influence in that Department, the American people ought to look at this appointment.

This man was born in Russia. He lived there a number of years, and in addition he was employed by the official Russian agency, the Amtorg Trading Corp., in this country.

Why cannot the State Department give the American people a break once? Why do not they go out to Nebraska or Kansas or Iowa or some other State and get a real agriculture expert from one of our agricultural colleges?

CALL OF THE HOUSE

Mr. CANFIELD. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. PRIEST. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 157]

Bolling	Hare	O'Konski
Boykin	Hart	Phillips, Calif.
Bulwinkle	Hays, Ark.	Powell
Carlyle	Hébert	Quinn
Carnahan	Jackson, Calif.	Redden
Case, S. Dak.	Judd	Reed, Ill.
Cavalcante	Kunkel	Rhodes
Chatham	LeCompte	Rivers
Davenport	Linehan	Smathers
Davies, N. Y.	McConnell	Smith, Ohio
Dingell	McMillen, Ill.	Walsh
Douglas	Miles	Werdel
Gamble	Miller, Calif.	White, Calif.
Gilmer	Morgan	Wolcott
Gross	Morrison	
Gwinn	Moulder	
Hall, Edwin Arthur	Murray, Wis.	
	Nixon	

The SPEAKER pro tempore. On this roll call 370 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

EXTENSION OF REMARKS

Mr. CURTIS asked and was given permission to extend his remarks in two instances and include extraneous matter.

Mr. McCORMACK (at the request of Mr. PRIEST) was given permission to extend his remarks and include an editorial appearing in the Boston Post, May 4, 1950.

Mr. HAYS of Ohio asked and was given permission to extend his remarks and include an address and, further, to extend his remarks and include extraneous matter.

Mr. WALSH (at the request of Mr. DENTON) was given permission to extend his remarks.

Mr. SMITH of Wisconsin asked and was given permission to extend his remarks in three instances and include extraneous matter.

Mr. LICHTENWALTER asked and was given permission to extend his remarks and include an address by James H. Allen.

Mr. MACY asked and was given permission to extend his remarks and include some remarks he made on Long Island last Sunday.

Mrs. ST. GEORGE asked and was given permission to extend her remarks in two instances and include newspaper articles.

Mr. MERROW asked and was given permission to extend his remarks and include an editorial.

Mr. WICKERSHAM and Mr. DONDERO asked and were given permission to extend their remarks.

Mr. WADSWORTH asked and was given permission to extend his remarks and include an article appearing in the March 1950 issue of the magazine known as Freedom and Union.

Mr. BEALL asked and was given permission to extend his remarks and include an editorial from the Baltimore Sun.

Mr. DOLLINGER (at the request of Mr. BARRETT of Pennsylvania) was given permission to extend his remarks in three instances and include extraneous matter.

Mr. ANGELL asked and was given permission to extend his remarks in two instances and include extraneous matter in each.

Mr. KELLEY of Pennsylvania asked and was given permission to extend his remarks and include a newspaper article.

Mr. FARRINGTON asked and was given permission to extend his remarks in two instances and include in one a newspaper article and in the other a statement.

Mr. SHEPPARD (at the request of Mr. DOYLE) was given permission to extend his remarks and include an article by E. A. Mattison.

Mr. O'NEILL and Mr. POULSON asked and were given permission to extend their remarks.

Mr. MARTIN of Iowa asked and was given permission to extend his remarks and include extraneous material.

Mr. HESELTON, Mr. MITCHELL, and Mr. JAVITS asked and were given permission to extend their remarks, each in two instances, and include extraneous material.

Mr. MILLER of Nebraska and Mr. VELDE asked and were given permission to extend their remarks, each in two instances.

Mr. BIEMILLER and Mr. LODGE asked and were given permission to extend their remarks, each in three instances, and include extraneous material.

Mr. DONOHUE asked and was given permission to extend his remarks and include an editorial.

Mr. RANKIN asked and was given permission to revise and extend the remarks he expects to make in Committee of the Whole today and include certain excerpts from extraneous publications and from the CONGRESSIONAL RECORD.

Mr. AUGUST H. ANDRESEN asked and was given permission to revise and extend the remarks he expects to make today on the subject of taxes.

Mr. KENNEDY asked and was given permission to extend his remarks and include an article from the Louisville Courier-Journal.

Mr. MARCANTONIO asked and was given permission to revise and extend the remarks he expects to make in Commit-

Please return to
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Congressional Record

PROCEEDINGS AND DEBATES OF THE 81st CONGRESS, SECOND SESSION

Vol. 96 WASHINGTON, THURSDAY, MAY 11, 1950 No. 94

Senate

(*Legislative day of Wednesday, March 29, 1950*)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

O merciful God, whose law is truth and whose statutes stand forever, make us ready, we beseech Thee, on the threshold of each new day to go forth armed with Thy power, seeking on the high road of public office to right wrong, and to overcome evil.

Grant unto us all that, laying aside any partisan divisions, we may be given tallness of stature to see above the walls of our prideful opinions the good of the largest number. Unite our hearts and minds to bear the burdens that are laid upon us and in all things to serve Thee bravely, faithfully, joyfully; that at the end of the day's labor, kneeling for Thy blessing, Thou mayest find no blot upon our shields. In the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. LUCAS, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, May 10, 1950, was dispensed with.

CALL OF THE ROLL

Mr. LUCAS. Mr. President, before suggesting the absence of a quorum, I ask unanimous consent that the time consumed in calling the roll be divided equally between the opponents and the proponents of the pending resolution.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. TAFT. In order that we may have some order in the procedure, does not the Senator from Illinois think it would be desirable to agree that someone should allot the time on each side of the question?

Mr. LUCAS. Yes; I intend to do that as soon as we have a quorum present.

The VICE PRESIDENT. Is there objection to the request of the Senator from Illinois? The Chair hears none, and it is so ordered.

The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Hayden	Maybank
Anderson	Hendrickson	Millikin
Benton	Hickenlooper	Mundt
Brewster	Hill	Myers
Bricker	Hoey	Neely
Bridges	Holland	O'Conor
Butler	Hunt	Robertson
Byrd	Ives	Saltonstall
Cain	Jenner	Schoeppel
Capehart	Johnson, Colo.	Smith, Maine
Chapman	Johnson, Tex.	Smith, N. J.
Chavez	Johnston, S. C.	Sparkman
Connally	Kefauver	Stennis
Cordon	Kem	Taft
Darby	Kerr	Taylor
Donnell	Knowland	Thomas, Okla.
Douglas	Langer	Thomas, Utah
Dworshak	Leahy	Thye
Eastland	Lehman	Tobey
Ecton	Lodge	Tydings
Ellender	Long	Watkins
Ferguson	Lucas	Wherry
Flanders	McCarthy	Wiley
Fulbright	McClellan	Williams
George	McFarland	Withers
Gillette	McKellar	Young
Green	Malone	
Gurney	Martin	

Mr. MYERS. I announce that the Senator from California [Mr. DOWNEY] is absent because of illness.

The Senator from Delaware [Mr. FREAR] and the Senator from Wyoming [Mr. O'MAHONEY] are absent on official business.

The Senator from North Carolina [Mr. GRAHAM], the Senator from Minnesota [Mr. HUMPHREY], the Senator from West Virginia [Mr. KILGORE], the Senator from Connecticut [Mr. MCMAHON], and the Senator from Florida [Mr. PEPPER] are absent on public business.

The Senator from Washington [Mr. MAGNUSON] and the Senator from Nevada [Mr. MCCARRAN] are absent by leave of the Senate on official business.

The Senator from Montana [Mr. MURRAY] is absent because of illness in his family.

The Senator from Georgia [Mr. RUSSELL] is absent by leave of the Senate.

Mr. SALTONSTALL. I announce that the Senator from Oregon [Mr. MORSE] and the Senator from Michigan [Mr. VANDENBERG] are absent by leave of the Senate.

The VICE PRESIDENT. A quorum is present.

REORGANIZATION PLAN NO. 12

The Senate resumed the consideration of the resolution (S. Res. 248) disapproving Reorganization Plan No. 12 of 1950.

The VICE PRESIDENT. The Chair has received a communication from the President of the United States which he asks the clerk to read. The Chair suggests to the Senator from Ohio and the Senator from Illinois that the time consumed in reading this communication, which consists of about three pages, be equally divided.

Mr. TAFT. Mr. President, of course I do not object to the suggestion of the Chair, but it rather seems to me that the time should be charged to the opponents of the resolution. However, I shall not object.

The VICE PRESIDENT. The clerk will read the communication from the President.

The Chief Clerk read as follows:

SIGNAL CENTER,
THE WHITE HOUSE,
May 11, 1950.

From: The President.
To: The Vice President.

TEXT OF TELEGRAM TO THE VICE PRESIDENT

Understand that the Senate will shortly vote on Reorganization Plan No. 12, relating to the National Labor Relations Board.

Plan 12 will correct an administratively unworkable organizational set-up and will put the procedures of the Labor Board in line with those of all the other independent regulatory commissions. The procedures of the Labor Board are at present a glaring exception to the procedures of the other commissions.

The issues now involved in consideration of Plan 12 are not matters of personalities, neither do they go to the substance of the controversy over the Taft-Hartley Act, as opponents of Plan 12 have attempted to argue.

No group of men could efficiently operate the two-headed freak which the organization of the Labor Board now represents.

The history of this matter leads me to believe that most of the opponents of Plan 12 are more concerned with politics than with the merits of the proposal.

Last year the Senate passed a bill, commonly known as the Taft-Smith-Donnell substitute, which its sponsors said was de-

signed to meet legitimate criticisms of the Taft-Hartley Act. Among the provisions which that bill contained, as passed by the Senate, was one to abolish the office of the independent general counsel of the Labor Board and transfer the functions of the office back to the Board itself. Thus, the Administrative Procedures Act of 1946 would have been relied upon to maintain the necessary separation of judicial and prosecuting functions of the Board. That is exactly the object of Plan 12.

On June 29, 1949, Senator TAFT made the following statement on the floor of the Senate in support of the proposal which now appears in Plan 12:

"I believe that the amendments which we have suggested are important. Perhaps the most important one is the elimination of the independent general counsel. The difficulty which arose with the independent general counsel was that he took a different view of the jurisdiction of the Board than did the Board itself. He would bring a case which he thought was covered by the act. After a year's litigation the Board would rule that it was not covered by the act. In the last analysis the Board determined the results, but in the meantime there was confusion. There was a difference of opinion. There was difficulty in the separation of powers.

"Under the Administrative Procedures Act, which was passed since the passage of the original National Labor Relations Act, the judicial and prosecuting functions are largely separated, although not entirely so. The procedure goes back to the Board. However, we felt that on the whole that separation accomplished the purposes we were trying to accomplish in not having the same people bring the prosecution, try the case, and then judge those whom they themselves had indicted. That was one of the strong protests made by the labor unions, and we felt that it was sufficiently justified to go back to the Administrative Procedure Act and rely upon that for a fair treatment by the Board."

Nothing has happened since June 1949, when Senator TAFT made that statement, to change the need for correcting the existing unsound administrative organization of the Labor Board. In fact, the contrary is the case. The need for change is greater now than it was then.

Plan 12 is in the best interests of sound Government organization and administration. I urge that the Senate give the plan its approval.

The VICE PRESIDENT. The communication will lie on the table.

Mr. LUCAS. Mr. President, I ask unanimous consent that the time required for debate on the pending measure be controlled respectively by the Senator from Ohio [Mr. TAFT] and the Senator from Pennsylvania [Mr. MYERS].

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. TAFT. Let me suggest to the Senator from Illinois and to all other Senators that any Senator who wishes to speak on this question should let us know as soon as possible how much time he wishes to have for that purpose. I understand that approximately 3½ hours now remain for the opponents of the resolution and nearly 5 hours for the proponents of the resolution.

The proponents of the resolution will not take more than an hour, so far as I have been able to ascertain. So I hope we may be able to reach a vote on this question not later than 4:30 or 5 o'clock this afternoon.

Mr. LUCAS. Mr. President, in reply to the Senator from Ohio, let me say that I think we can accommodate him. I have canvassed the situation among Senators on this side of the aisle, and I doubt that we shall take more than an hour and a half or an hour and three-quarters in the debate.

I do not believe it is necessary to state definitely now the exact amount of time that will be required, for no doubt that can better be determined after observing the developments which occur. However, I think a little later in the afternoon we shall be able to determine the amount of time required.

Mr. ROBERTSON. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. ROBERTSON. A little later, when the majority leader ascertains more definitely the amount of time required, I should be glad to have him consider a unanimous-consent request that the Senate vote at 4 o'clock on the pending question, in order that immediately thereafter we may consider and then vote on my resolution regarding Reorganization Plan No. 1, which we are perfectly willing to submit to the Senate for debate not to exceed 1 hour in duration, with the time to be equally divided, one-half the time to be controlled by the Senator from Arkansas [Mr. MCCLELLAN] and the other half by the Senator from Connecticut [Mr. BENTON].

Mr. LUCAS. Mr. President, let me say to the able Senator from Virginia that I think we should take up that matter when we have finally disposed of the question now pending.

The VICE PRESIDENT. The Chair would suggest that all time now consumed on any subject is part of the 10 hours of debate, and is now under the control of the two Senators, respectively, who have been named as being in charge of the time.

Mr. ROBERTSON. Mr. President, I hope the minute or two we take on this matter now will save time later, because it is obvious that we face the fact that 50 Senators voted yesterday to have the Senate take up this measure, and I assume that those 50 Senators will vote in favor of the resolution of disapproval. Therefore it seems to me that any further debate on the question will not result in changing any votes. Consequently it seems rather needless to hold Senators here very long for extended debate in the Senate on this question.

Mr. LUCAS. Mr. President, I do not propose to hold any Senator longer than is necessary, but neither do I propose to enter into an agreement now which will have the result of cutting off debate on the part of some Senators who may not be on the floor of the Senate at this time.

I have canvassed Senators on this matter, and I know of five or six Senators who desire to speak on this question. There may be other Senators who will desire to speak on it.

I think that by 5 or 6 o'clock this afternoon we shall be able to determine more nearly the amount of time required.

LEAVE OF ABSENCE

Mr. TAFT. Mr. President, I allow 20 minutes to the Senator from Arkansas [Mr. MCCLELLAN], the chairman of the Committee on Expenditures in the Executive Departments, if he wishes to use that much time.

Mr. FERGUSON. Mr. President, before the Senator from Ohio yields to the Senator from Arkansas, I wonder whether the Senator will yield to me sufficient time to permit me to request unanimous consent that my distinguished colleague the senior Senator from Michigan [Mr. VANDENBERG] may be granted unanimous consent to be absent.

Mr. TAFT. Certainly.

Mr. FERGUSON. Mr. President, I ask unanimous consent that my distinguished colleague the senior Senator from Michigan [Mr. VANDENBERG] may be excused from attendance at the session of the Senate today and for such other sessions of the Senate as he may be unable to attend because of his illness.

The VICE PRESIDENT. Without objection, it is so ordered.

STATEMENT BY 35 SENATORS REGARDING FAR EASTERN POLICY—COMMUNICATION FROM THE PRESIDENT

Mr. WHERRY. Mr. President, will the Senator yield in order that I may make an insertion in the RECORD?

The VICE PRESIDENT. The Senator from Ohio has control of the time.

Mr. WHERRY. I understood the Senator from Ohio to yield time to the Senator from Arkansas [Mr. MCCLELLAN]. I am asking the Senator from Arkansas to yield to me.

Mr. MCCLELLAN. I yield to the Senator from Nebraska, in order that he may make an insertion only.

Mr. WHERRY. Mr. President, on May 2, 35 Senators sent to the President of the United States, in a letter addressed to him, a statement of their observations on the development of the far-eastern policy. The letter is as follows:

President HARRY S. TRUMAN,
The White House,
Washington, D. C.

DEAR MR. PRESIDENT: We, the undersigned Members of the Senate of the United States, respectfully urge that this Government, in the development of a far eastern policy, promptly make clear:

1. We have no present intention of recognizing the Communist regime in China; and

2. We shall actively oppose the move by representatives of the Soviet Union to unseat the representatives of the Republic of China and to extend membership to the representatives of the Communst regime of that country in the United Nations.

We firmly believe that a prompt clarification of our position in this matter is in the national interest.

Sincerely yours.

PAT MCCARRAN, GUY CORDON, KARL E. MUNDT, JOHN W. BRICKER, RALPH E. FLANDERS, CHAN GURNEY, W. E. JENNER, G. W. MALONE, JAMES B. EASTLAND,

HARRY DARBY, HARRY F. BYRD, FORREST C. DONNELL, HUGH BUTLER, HENRY C. DWORSHAK, EUGENE D. MILLIKIN, LEVERETT SALTONSTALL, HERBERT R. O'CONOR, CHARLES W. TOBEY, WILLIAM F. KNOWLAND, STYLES BRIDGES, OWEN BREWSTER, MILTON R. YOUNG, EDWARD THYE, EDWARD MARTIN, ROBERT A. TAFT, KENNETH S. WHERRY, ANDREW SCHOEPPEL, HARRY P. CAIN, ZALES ECTON, HOMER FERGUSON, JAMES P. KEM, ROBERT HENDRICKSON, JOSEPH R. MCCARTHY, IRVING M. IVES, JOHN J. WILLIAMS.

On May 5 the President of the United States directed to the Senator from Nebraska a short communication which I should like to read.

Mr. McCLELLAN. Mr. President, I do not wish to yield for debate.

Mr. WHERRY. I shall need only 30 seconds to complete this matter.

Mr. McCLELLAN. Very well.

Mr. WHERRY. The letter from the President reads as follows:

THE WHITE HOUSE,
Washington, May 5, 1950.

Hon. KENNETH S. WHERRY,
United States Senate,
Washington, D. C.

DEAR KENNETH: I received the round-table suggestion which you and your colleagues got up and signed on May 2.

It is very thoughtful of you to give me an expression of your opinion on the Chinese situation—it will be carefully considered.

I hope you will place this communication in the records so all your colleagues, who signed the round robin, may understand that I appreciate their interest in foreign affairs.

Sincerely yours,

HARRY S. TRUMAN.

Mr. President, I thank the distinguished Senator from Arkansas for yielding me these few seconds, in order that I might make this insertion in the RECORD at this time.

LEAVE OF ABSENCE

Mr. McCLELLAN. Mr. President, I desire to propound unanimous consent, first, that I be permitted to be absent from the Senate tomorrow.

The VICE PRESIDENT. Without objection, consent is granted.

ANNOUNCEMENT OF HEARINGS ON RESOLUTIONS OF DISAPPROVAL OF REORGANIZATION PLANS NOS. 17 AND 18

Mr. McCLELLAN. Mr. President, before discusing the pending question, I should like to announce to the Senate that on yesterday two other resolutions of disaproval to pending reorganization plans were filed, namely, Senate Resolution 271, submitted by the Senator from Vermont [Mr. AIKEN], to disapprove Reorganization Plan 17 of 1950; and Senate Resolution 270, submitted by the Senator from South Carolina [Mr. JOHNSTON], to disapprove Reorganization Plan No. 18. On those resolutions the Committee on Expenditures in the Executive Departments will hold hearings next Tuesday, May 16.

I am asking that all Senators who are interested—all witneses who may be interested, and the various departments interested are being notified of these hearings—be prepared to present their testimony to the committee as quickly as possible, because I hope and expect to conclude the hearings on both the resolutions in 1 day, by holding morning and afternoon sessions.

In that connection, Mr. President, I ask unanimous consent that the Committee on Expenditures in the Executive Departments, during its consideration of reorganization plans, may be permitted to sit in the consideration of any plan at any time when the Senate is in session, for the purpose of holding such hearings.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

REORGANIZATION PLAN NO. 12

The Senate resumed the consideration of the resolution (S. Res. 248) disapproving Reorganization Plan No. 12 of 1950.

Mr. McCLELLAN. Mr. President, as the Senate is aware, of course, the Committee on Expenditures in the Executive Departments on April 17, last, reported favorably Senate Resolution 248, which expresses disapproval of Reorganization Plan No. 12 of 1950, relating to reorganization of the National Labor Relations Board.

The membership of the committee by a vote of 9 to 4 reported favorably the resolution of disapproval which was submitted by the senior Senator from Ohio [Mr. TAFT].

The effect of the adoption by the Senate of Senate Resolution 248 will be to prevent Reorganization Plan No. 12 from becoming public law on next May 24. I have been informed the recent recess taken by the House from April 6 to April 18 extended by 11 additional days the 60-day period in which either House of the Congress may reject the plan, thus making the effective date May 24.

The action taken by the committee followed the holding of public hearings on April 4, 5, and 6. The testimony of 12 witnesses, who may be regarded as authorities upon the isues involved, was heard. Nine of the 12 witnesses strongly opposed the adoption of the plan, whereas three witnesses favored the plan.

Mr. President, I ask unanimous consent that, as a part of my remarks, a list of the witnesses who appeared, both for and against the plan, be inserted in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Witnesses who opposed the plan are:

1. Hon. Robert A. Taft, United States Senator from Ohio.
2. Robert N. Denham, general counsel, NLRB.
3. Theodore R. Iserman, attorney, New York City.
4. Bethel B. Kelley, Detroit Board of Commerce.
5. James D. Marshall, Associated General Contractors of America, Inc.
6. Lambert H. Miller, National Association of Manufacturers.
7. Gerard D. Reilly, attorney, Washington, D. C.
8. Hoyt P. Steele, executive vice president, Benjamin Electric Manufacturing Co., Des Plaines, Ill.
9. Alexander E. Wilson, Jr., law firm of Wilson, Branch & Smith, Atlanta, Ga.

Witnesses who favored the plan were:

1. Paul M. Herzog, chairman, NLRB.
2. Frederick J. Lawton, director, Bureau of the Budget.
3. Paul L. Styles, member, NLRB.

1. PLAN 12 WOULD NOT ACCOMPLISH THE OBJECTIVES OF THE REORGANIZATION ACT OF 1949

Mr. McCLELLAN. The Reorganization Act of 1949, pursuant to which Plan No. 12 was submitted, had as its primary objectives the achievement of economy, efficiency and improved management in the executive branch of the Government.

It is difficult to see how plan 12 furthers any of these purposes. It was not proved to the committee, through hearings, or otherwise, that the plan will bring about any substantial saving of money. The President, himself, in submitting the plan admitted it "may not in itself result in substantial immediate savings," but predicted "during the next years * * * a reduction in expenditures as compared with those that would otherwise be necessary." Subsequent statements by Mr. Herzog, the chairman of the National Labor Relations Board, and the director of the Bureau of the Budget, were equally vague as to economies which might be achieved.

It also requires considerable stretching of the imagination to conclude that greater administrative efficiency would result from adoption of the plan. It should be recalled that the Hoover Commission Task Force, which made an extensive analysis of the NLRB, reported that the chief bottleneck in case handling is the Board, rather than the general counsel or any of his operational divisions. I call attention to the fact that, notwithstanding the bottleneck, this plan would simply place a greater burden on the Board and therefore would possibly increase rather than diminish the existing bottleneck. When it is considered that the heavy burden of case handling at the initial stage will be added to the already overtaxed Board, or its chairman, as well as the supervision of an additional 800 employees of the general counsel's office, who likewise would be transferred under the plan, it is, indeed, difficult to reason that either administrative efficiency or internal management would be improved. To the contrary, it would appear that such extra burdens would produce exactly the opposite result.

No real evidence was presented that inefficiency presently exists in either the NLRB or the counsel's office. Rather the issue before the committee was that conflicts in interpretation of the basic statue, the Taft-Hartley Act, as to their respective functions is the cause of the controversy plan 12 seeks, and incorrectly seeks, to solve.

I may say that those controversies are soon to be settled by the courts. Two cases are now pending in the courts on appeal from the Board, or from the action of the general counsel, which will definitely determine the controversy with respect to the interpretation of the present law and the functions and duties of the general counsel under the law, as well as the duties and responsibilities or the jurisdiction of the Board under it. So I say, Mr. President, that what this plan would seek to correct—and as I have suggested, would seek incorectly to correct—is a problem and an issue which is now before the courts and which will soon be determined.

2. PLAN 12 CLEARLY REPUDIATES A POLICY OVERWHELMINGLY EXPRESSED BY CONGRESS AS RECENTLY AS 1947

The Taft-Hartley Act was enacted by the Congress in 1947 after lengthy debate, by overwhelming majorities in both Houses and over a Presidential veto.

Among the vital issues involved in the Taft-Hartley Act was the separation of the investigative and prosecuting functions of the NLRB from its judicial functions. As we all know, that was one of the strongest objections to the original Wagner Act and to the National Labor Relations Board created by that act. This plan simply means to revert to the old procedure and to institute again a procedure which was condemned under that practice and under the old law.

Among the vital issues involved in the Taft-Hartley Act was a separation of the investigative and prosecuting functions of the NLRB from its judicial functions. The same issue is involved here, Mr. President. The House bill created an independent Administrator of the National Labor Relations Act, giving him all investigative and prosecuting functions. The Senate bill did not divorce the prosecuting functions from the judicial, but sought to improve the judicial functions of the Board in several ways. The conferees on House bill 3020 adopted a new section, section 3 (d) of the Taft-Hartley Act, which established the office of general counsel. This section set forth the counsel's functions in the following language:

SEC. 3. (d) There shall be a general counsel of the Board who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 4 years. The general counsel of the Board shall exercise general supervision over all attorneys employed by the Board (other than trial examiners and legal assistants to Board members) and over the officers and employees in the regional offices. He shall have final authority, on behalf of the Board, in respect of the investigation of charges and issuance of complaints under section 10, and in respect of the prosecution of such complaints before the Board, and shall have such other duties as the Board may prescribe or as may be provided by law.

There was an attempt under this act wholly to divorce from the jurisdiction of the Board the prosecuting functions.

The intent of the Congress with respect to the independence of the general counsel from the NLRB was made unmistakably clear in the statement of the managers accompanying the conference report. This is what the conferees said was what they intended the law to do:

The general counsel is to have general supervision and direction of all attorneys employed by the Board (excluding the trial examiners and the legal assistants to the individual members of the Board), and of all the officers and employees in the Board's regional offices, and is to have the final authority to act in the name of, but independently of any direction, control, or review by, the Board in respect of the investigation of charges and the issuance of complaints of unfair labor practices, and in respect of the prosecution of such complaints before the Board. He is to have, in addition, such other duties as the Board may prescribe or as may be provided by law. By this provision responsibility for what takes place in the Board's regional offices is centralized in one individual, who is ultimately responsible to the President and Congress.

This conference report was accepted by the House on June 4, 1947, by a vote of 320 to 79; by the Senate on June 6, 1947, by a vote of 54 to 17.

Thus, the conviction of Congress, in enacting the Taft-Hartley Act, that the investigative and prosecuting functions of the NLRB should be distinctly separated from its judicial functions, is clear.

Plan 12—beyond successful refutation—repudiates this policy. It transfers the powers of the general counsel to the National Labor Relations Board or its Chairman, thus destroying the separation of functions which the Congress established less than 3 years ago, and it abolishes the general counsel.

Nothing has occurred in my judgment since enactment of the Taft-Hartley Act which warrants this reversal of congressional policy on such a significant issue.

As I said a moment ago, the issue will soon be settled by the courts, and thereafter both the Board and the counsel will have the guide of the judiciary as to what their respective functions are and how to proceed under them.

The clear-cut separation of the investigative and prosecutory functions from the judicial functions of the National Labor Relations Board is just as important to the welfare of the country today as it was 3 years ago. It is just as important to have those functions separated, under the peculiar working and responsibility of this agency, as it is to have those functions separated in a court of law.

No fair-minded person can contend with reason that the Hoover Commission at any place in its reports recommended abolition of the office of general counsel of the NLRB. As a member of that Commission, I can assure Senators that it was not the intent or purpose of the Commission to recommend that the office be abolished or its functions transferred to the NLRB. I also will state that had that been its purpose, or had the majority of the Commission so recommended, there would have been a most vigorous dissenting report written, and I would have written it. I do not know who else would have joined with me, but such a dissenting report would have been filed.

Aside from my firm convictions as to the Commission's purpose in that matter, we have but to refer to the recent statement by former President Herbert Hoover addressed to the author of the current resolution of disapproval, the Senator from Ohio [Mr. TAFT]. With the permission of the Senator from Ohio I shall read the statement, which is part of the committee's records:

Hon. ROBERT A. TAFT,
United States Senate,
Washington, D. C.:

I have your inquiry as to the recommendations of the Commission on Organization of the Executive Branch of the Government as to the counsel of the National Labor Relations Board. So far as I recollect, this subject was never discussed by the Commission. There is no recommendation in the Commission's reports to Congress.

HERBERT HOOVER.

The VICE PRESIDENT. The time of the Senator from Arkansas has expired.

Mr. TAFT. I yield five more minutes to the Senator from Arkansas.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. LUCAS. According to a memorandum which I have here, the Hoover Commission itself recommended that "all administrative responsibility be vested in the Chairman of the Commission."

Mr. McCLELLAN. Yes; that is a general recommendation, of course. As a general principle, that would be true. But I was going to comment a little further as to the telegram from former President Hoover, and my recollection of what occurred——

Mr. LUCAS. Right along that line, as I understand, the Hoover Commission also said:

The existence of such an office (i. e., the general counsel), independent both of the Federal department structure and of the Board, marks a departure from previous administrative practice. If permitted to set a pattern for future Government organization, it may lead to a diffusion of responsibility.

Mr. McCLELLAN. That is correct; but insofar as the Hoover Commission making any recommendation about it is concerned, I say it did not. At the time it was presented in the hearings my recollection is that the Hoover Commission positively took no action. I also refer my colleague to other Senators, including the Senator from Vermont [Mr. AIKEN], who served on the Commission. Our recollection about the matter is the same, except that former President Hoover says he does not recall that it was ever discussed. I think I recall one occasion when the subject was broached. My recollection is that the Commission agreed that this was substantive law and, therefore, it involved a policy which Congress had fixed, and it was not the function or the jurisdiction of the Reorganization Commission, established to reorganize the executive branch of the Government, to try to interfere with the prerogatives of the Congress in fixing national policy.

That is the position which the Hoover Commission took, without a record vote. That is why there is nothing presented as a recommendation from the Hoover Commission on this subject. We felt that it was a law which the Congress had enacted as a policy, and, therefore, it was not within the prerogatives of the Hoover Commission to undertake to tell the Congress how to change its policy.

Most exhaustive search of the Hoover Commission's reports—both the Commission's final reports and the task force staff reports—fails to reveal any basis whatsoever for plan No. 12's major purpose, that of abolishing the NLRB general counsel. Basis exists for some other provisions of the plan, but not for abolition or transfer of the general counsel.

To the contrary, it recommended creation of a special council of labor under

chairmanship of the Secretary of Labor, in which the general counsel and other Federal officials concerned with labor problems would be included.

For the reasons outlined above, and for other equally important reasons which I am certain will be forcibly presented in debate which will follow, I can reach no other conclusion than that Reorganization Plan 12 should be rejected.

Mr. President, as I conclude, I wish to invite the attention of the Members of the Senate to my thoughts about the question. The congressional-declared purpose of the whole reorganization authorization is to bring more efficiency and greater economy into the Federal Government. It is my judgment, after study of many of the plans which are being submitted to us, that many of them tend more in the direction of centralizing power in the executive branch of the Government than they do in the direction of reorganizing the executive branch for the purpose of obtaining greater efficiency or economy. That is what this plan does. It centralizes power by placing all the investigative, prosecution, and judicial functions of a board which will have tremendous powers over the life of the economy of this Nation in one agency. The prosecuting functions and the judicial functions should be separated, in keeping with our American principles and traditions.

Mr. TAFT. Mr. President, I yield 10 or 12 minutes to the senior Senator from New Jersey.

NATIONAL SCIENCE FOUNDATION ACT OF 1950

Mr. SMITH of New Jersey. Mr. President, before I address myself to Senate Resolution 248, with the consent of the Senator from Ohio [Mr. TAFT], I wish to address myself for about a minute and a half to a matter which I think is of great importance to this body.

Yesterday the President affixed his signature to S. 247, the National Science Foundation Act of 1950. This is a matter of such importance that I desire to make a brief comment.

It is profoundly gratifying that the long effort to establish a National Science Foundation has thus been brought to a successful conclusion. This enactment is a historic milestone in the encouragement of basic scientific research, which is so vital to the welfare and safety of the American people.

Our experience during the recent war made clear the tremendous need for a larger number of researchers, and a much greater amount of first-class work, in fundamental science as distinguished from applied science. We found that while America stood unsurpassed in the application of scientific truth, and in the development of weapons and techniques, we, as a people, had never devoted a comparable effort to the search for fundamental scientific truth, from which all our techniques and machinery must be derived. The most dramatic example is atomic energy, a fantastic force for peace as well as for war, which we developed on the basis of discoveries made largely in other countries by such great scientists as Albert Einstein and Enrico Fermi. Dr. Einstein is now living in this country and is a resident of Princeton, where I live.

In my judgment this is the sort of problem which government can legitimately help to solve. The pursuit of fundamental science is not profitable from a short-range, dollars-and-cents point of view. Our universities have been doing a good deal of excellent work in these basic fields, but it is not enough because they are short of funds, and it is not well coordinated. Some Government agencies also have been doing good work, but this also is not well coordinatd from the point of view of the security and welfare of the whole Nation.

The National Science Foundation Act is directly intended to meet this problem. Within a relatively small budget, it is authorized to grant scholarships and fellowships which will train young students in the basic sciences, and to let contracts for the carrying on of basic research projects by private groups such as universities, industrial concerns, and independent foundations. It is also directed to evaluate the work which is already being done both in Government and privately, and to coordinate its activities with these other projects so that the gaps will be effectively filled in. Its ruling body will consist of 24 private citizens, eminent in the sciences and in public affairs.

Except at the specific request of the Secretary of Defense, the Foundation will not engage in the development of weapons, and it is anticipated that only a very small part of its work will be of a secret nature. I wish to emphasize that in all matters where secrets may be involved the act sets up safeguards which were very carefully developed during the conference between the two Houses of Congress. I am satisfied that these safeguards will very effectively protect our national security without unduly curtailing freedom of scientific inquiry.

In a larger sense, the National Science Foundation will itself play a great part in promoting our American security, as well as our welfare. Without in any way limiting the free initiative of private citizens, it will make possible a steady advance in the search for those fundamental secrets of nature which are so important for the safety, health, and well-being of us all.

Mr. President, the Senators on both sides of the aisle with whom I had the honor to join in sponsoring S. 247 and its predecessors in the Eightieth Congress, S. 526 and S. 2385, are as follows: The Senator from Utah, Mr. Thomas; the Senator from Oregon, Mr. Cordon; the Senator from West Virginia, Mr. Kilgore; the Senator from Massachusetts, Mr. Saltonstall; the Senator from Washington, Mr. Magnuson; the Senator from Arkansas, Mr. Fulbright; and the former Senator from West Virginia, Mr. Revercomb. These Senators, along with their opposite numbers in the House of Representatives, deserve the thanks of all of us for their contribution to the advancement of science in the United States.

REORGANIZATION PLAN NO. 12

The Senate resumed the consideration of the resolution (S. Res. 248) disapproving Reorganization Plan No. 12 of 1950.

Mr. SMITH of New Jersey. Mr. President, I should like to explain why I intend to support Senate Resolution 248 disapproving Reorganization Plan No. 12 of 1950.

In the first place, this plan has been presented to the Congress under false colors as a purely administrative reform sanctioned by the report of the Hoover Commission. The fact is that the Hoover Commission made no recommendation to abolish the office of the general counsel. The Citizens' Committee for the Hoover report has specifically and quite properly stated that plan 12 "raises issues which are not wholly organizational, but are matters of national, political, and economic policy. Any possible doubt as to whether the general recommendations of the Hoover Commission were intended to support the changes proposed by plan 12 must certainly be completely dispelled by Mr. Hoover's telegram of April 4, 1950, to the Senator from Ohio [Mr. TAFT], and by the testimony of the Senator from Arkansas [Mr. MCCLELLAN], who served as a member of the Commission, as the Senator from Arkansas has pointed out.

Mr. Hoover, in his telegram, says:

> So far as I recollect this subject was never discussed by the Commission. There is no recommendation in the Commission's report to Congress.

In the same connection, during the hearings before the Committee on Expenditures in the Executive Departments, the Senator from Arkansas [Mr. MCCLELLAN] made the following positive assertion:

> I know that it was not the purpose of the Commission to recommend that this office—

That is, the office of the general counsel—

> be abolished.

I may add that I conferred in person with Mr. Hoover about this matter and he fully confirmed the foregoing statement. In light of these statements, I do not think there can be any further doubt on this point. We are being asked to change an existing legislative policy by the special procedures of the Reorganization Act of 1949. This, it seems to me, is entirely improper, aside from the merits of the question.

Mr. President, I am quite willing to concede that the present arrangement under the Taft-Hartley Act for the separation of functions between the general counsel and the National Labor Relations Board is not adequate and has not worked out successfully. In the dynamic and delicate field of labor-management relations we are constantly striving to find the legislative pattern which will be most conducive to industrial peace and justice. In 1947 we heard convincing testimony that under the Wagner Act the decisions of the Board were inevitably colored by the fact that the Board was responsible for directing the prosecution of the cases which, in the last analysis, it was called upon to decide.

In other words, it was acting as both prosecutor and judge. We therefore worked out a separation of functions which we hoped would correct this deficiency and would bring the administration of the Labor-Management Relations Act in line with our traditional insistence that responsibility for prosecution and judgment should not reside in the same body. That is the whole issue here. Prosecution and judgment should not be vested in the same body.

It now appears that the arrangement we adopted has resulted in unfortunate conflicts between the general counsel and the Board. There is disagreement, for instance, over the scope of the Board's jurisdiction. It has been pointed out also that the general counsel may exercise important policy-making power through his decision, from which there is no appeal, that an unfair labor practice complaint is not warranted in a specific case. I think we should correct these evils. Perhaps it would be desirable to amend the Labor-Management Relations Act to clarify the power of the Board to decide the scope of its jurisdiction, and to hear appeals from the general counsel's decision to refuse to issue an unfair labor practice complaint. In my judgment, however, in the process of correcting these defects it is both unnecessary and undesirable to throw out the window the separation of prosecuting and decision-making responsibilities that is so fundamental to the democratic process.

It also seems abundantly clear that the proper solution to these problems is not to revert back, as plan 12 proposes, to the previous set-up under the Wagner Act which the Labor-Management Act was designed to correct. We tried to correct the defects of that act. If we have not corrected them properly, let us try again to correct them.

I am convinced that as a legislative policy—and that is what we are discussing here—whatever solution is decided upon should be the result of careful consideration by the Labor and Public Welfare Committee and by the Senate as a matter of legislative policy, rather than under the cover of a reorganization plan that is clearly disowned by the very body from which it is purported to originate.

I am advised that legislation has been introduced looking to the correction of the difficulties in the present act, and I understand it will be given consideration shortly by our committee. I am very much interested in it, and I hope to have a hand in developing the right kind of set-up for the difficulties which are being encountered. The way to correct them is not to revert to the procedure provided by the Wagner Act, under which trouble arose.

In summary, Mr. President, I shall support Senate Resolution 248 disapproving Reorganization Plan No. 12 because this plan is not in accord with the recommendations of the Hoover Commission; because this plan does away with the separation of functions that is essential to the just administration of the Labor-Management Relations Act; and because any defects in this act should be corrected only after careful consideration by the proper committee and by the Senate as a matter of legislative policy.

Mr. MYERS. Mr. President, I yield 20 minutes to the senior Senator from New York [Mr. IVES].

The PRESIDING OFFICER (Mr. DONNELL in the chair). The Senator from New York is recognized for 20 minutes.

Mr. IVES. Mr. President, I regret exceedingly that I must take such sharp issue with my distinguished colleague the senior Senator from New Jersey [Mr. SMITH]. Inasmuch as my remarks are to be comparatively brief, I shall not yield until their conclusion, in the event any question may be raised by any Member of the Senate.

Whether by design or otherwise, Reorganization Plan No. 12 appears to have been the victim of a great deal of misinformation. Let me cite five conspicuous instances of the resultant misunderstanding regarding it.

In the first place, statements that plan No. 12 is an attempt to repeal the Taft-Hartley Act are utterly without foundation in fact. If adoption of this proposal were to repeal that act, then the adoption of most reorganization plans would repeal the laws to which they relate.

In the second place, while plan No. 12, as has been pointed out, is not one of the Hoover Commission recommendations, it nevertheless does not conflict with the principles and policies enunciated in those recommendations or with any of the recommendations themselves. As a mater of fact, both the staff report of the Hoover Commission's Task Force Committee on Independent Regulatory Commissions and that committee itself in criticizing the present functioning and operation of the National Labor Relations Board and the independent general counsel, have indicated the need for corrective action along lines which are not in conflict with plan No. 12. Indeed, plan No. 12 implements these suggestions by the task force committee and its staff and does conform in principle to the Hoover Commission's recommendations with respect to other regulatory agencies.

In the third place, plan No. 12 is not illegal. In his testimony before the Senate Committee on Expenditures in the Executive Departments, the distinguished Senator from Ohio [Mr. TAFT] himself stated that he did not question the legality of the plan. Furthermore, no witness appearing before the committee indicated his belief that it is illegal.

To be sure, the general counsel in his testimony expressed apprehension over the confusion which might arise if the plan were to be adopted and then subsequently thrown out by the courts. In this connection, however, I am constrained to observe that a similar situation existed when the Taft-Hartley Act was enacted and will almost surely occur again whenever there is substantial revision in our National Labor Relations law. If we are to refrain from amendment or change in the law in order to avoid litigation, then no revision worthy of the name will ever be undertaken.

In the fourth place, contrary to some allegations, under plan No. 12 all the National Labor Relations Board's power would not be concentrated in the Board's Chairman. This plan, in brief, and as has been stated in this debate, abolishes the office of the present independent general counsel and transfers his policy-making functions to the Board and his executive and administrative functions to the Chairman of the Board. That is what the plan states.

In the fifth place, during recent weeks a great deal has been written and said about the judge-jury-prosecutor functions in the Taft-Hartley Act, and one might be led to believe that these constitute all of its functions. Actually in this act there is comparatively little of the judge-jury-prosecutor relationship.

As many know, the act provides for a Labor Relations Board of five members and an independent general counsel. The function of the Board is to handle representation cases, sometimes involving elections, and to render final decisions in unfair labor practice cases which are appealed to it after the presentation of the facts by the general counsel. The function of the general counsel is to issue complaints in such unfair labor practice cases as he believes involve a violation of the law.

In the matter of representation cases, the Board's jurisdiction is final and its action in refusing to consider these cases in the first instance is also final. Insofar as unfair labor practice cases are concerned, the action of the general counsel in refusing to consider such cases in the first instance is final. There is no appeal from either of these agencies of Government in these particular circumstances.

The only instance where the judge-jury-prosecutor situation arises is in the matter of appeals to the Board from decisions in which complaints have been issued by the general counsel after the general counsel has agreed initially to prosecute the cases. This area of relationship between the two, although it has attracted considerable attention because of a number of controversies which have arisen, is comparatively limited.

The fact of the matter is that the general counsel himself, in his decision to prosecute or to refuse to prosecute unfair labor practice cases, as an individual is exercising much more completely and to a far greater extent the judge-jury-prosecutor function than is evidenced in the relationship between himself and the Board. And as for the Board, this body in turn in its own decisions regarding the consideration of representation cases is also exercising much more extensively the judge-jury-prosecutor function than is evidenced in its relationship with the general counsel. In fact, all this talk about the transcendent importance of the judge-jury-prosecutor functions as they pertain in the relationship between the Board and the general counsel is an enormous exaggeration.

These are among the reasons why in 1947 the labor relations bill originally

passed by the Senate did not provide for this kind of separation of activity, but called instead for such segregation of functions as might be necessary to conform to the provisions of the Administrative Procedure Act of 1946. This act requires the separation of functions in all administrative agencies to prevent a violation of the judge-jury-prosecutor principle.

Indeed, never has the Senate passed a labor relations bill of its own which provided for any such separation of powers as is required by the Taft-Hartley Act. It may be recalled that the Taft bill, which was passed by the Senate last June, contained no such separation and its provisions dealing with this matter were very similar to those in the Senate bill of 1947. In truth, the procedures which would have been adopted by the Board under the terms of either the 1947 Senate bill or the 1949 Taft bill almost surely would be the same as those which would be adopted by the Board under the terms of Reorganization Plan No. 12.

What is at stake in this particular controversy over plan No. 12 is not the reduction or the elimination or the abolition of functions. Neither is it primarily a question of the separation of powers by statute. This plan is aimed to correct a very unfortunate condition occasioned by very poor draftsmanship in the Taft-Hartley Act, which was the product of conference action in 1947 and which, due to its ambiguity and inadequacy, has occasioned a great deal of confusion and conflict between the National Labor Relations Board and the general counsel and—most unfortunate of all—in the minds of the parties coming before the Board or the general counsel.

It happens that, in his selection of a general counsel, the President named a person who has appeared sometimes to be more friendly to management than to labor. But there is no assurance that another general counsel would not be friendly to labor and hostile to management. As a matter of fact, it seems to me that the personality of the present general counsel is among the least important of the factors in the consideration of plan No. 12.

Criticism has been directed against the present Labor Relations Board set-up because of its dual-headed nature. From the standpoint of efficient and effective administration, the justification for this criticism would appear to be obvious.

As I see it, however, the idea of dual-headed administration in this particular agency is most undesirable for reasons of far greater consequence than is the matter of administration itself. The whole concept of thus separating the prosecuting and adjudicating functions of the National Labor Relations Board—even to the limited extent to which the judge-jury-prosecutor relationship exists at the present time—is fundamentally hostile to the attainment of sound and satisfactory labor relations. By this process, labor and management are automatically set apart by law as naturally antagonistic forces in a set-up which legalizes their status of litigants in all labor relations controversies. This separation of functions by inviting formal litigation acts to cripple the very force in labor relations which can contribute most to their improvement—the force of mediation.

This is one of my chief reasons for objecting to the present National Labor Relations establishment. It is one of my chief reasons for favoring Reorganization Plan No. 12. It is one of my chief reasons for objecting to the two-headed agency which would be created under the terms of S. 3339, which has been introduced by the distinguished senior Senator from Ohio [Mr. TAFT].

If, as permanent policy, we are to accept the idea that there must be perpetual conflict between management and labor—which I deny—then neither the present set-up in the National Labor Relations Board nor the proposal offered by the Senator from Ohio is suitable. If in this country we have reverted to a condition where, insofar as the attainment of a happy relationship between labor and management is concerned, we must despair, then a system of labor courts with all the attendant prosecuting and other essential machinery and procedures should be established.

Right now, in the attitude of many opposed to plan No. 12, is evidenced at least a subconscious feeling that a basic antagonism and conflict between labor and management must be permanent. The very thought, as expressed by some, that the adoption of plan No. 12 would be a victory of labor over management is preposterous. I deplore this attitude. It augurs no good for the future of labor relations in our country.

For all of these reasons I favor Reorganization Plan No. 12 and oppose Senate Resolution 248.

Mr. MYERS. Mr. President, I yield 15 minutes to the junior Senator from New York [Mr. LEHMAN].

The PRESIDING OFFICER. The junior Senator from New York is recognized for 15 minutes.

Mr. LEHMAN. Mr. President, I strongly oppose the pending resolution to set aside Reorganization Plan No. 12. In my opinion plan No. 12 provides the best immediate method for putting an end to the unique administrative chaos in which the National Labor Relations Board is now operating.

The sponsors of the pending resolution would have the Senate believe that plan No. 12 is an exceptional plan, designed to set aside the expressed will of the Congress. Actually plan No. 12 is merely one of the seven proposed by the President to increase the administrative efficiency of the seven principal regulatory commissions of the Federal Government. The changes proposed for the National Labor Relations Board are admittedly more sweeping than those proposed for the other commissions, but that is only because the need is greater. A stronger remedy is required because the disease of administrative disorder is more serious in the National Labor Relations Board than in any of the other commissions and boards.

Four years' experience as lieutenant governor and 10 years as Governor of New York have taught me that efficient government management is possible only when the government structure is so arranged as to reduce to an absolute minimum the sources of internal friction and to establish clear lines of authority and responsibility within every administrative agency.

The hearings before the Committee on Expenditures are replete with evidence that the split in functions at the National Labor Relations Board has magnified many times the already great difficulties of administering the Taft-Hartley Act.

The question of sound administration has nothing to do with the substantive provisions of the present act. This same chaos would exist if the present administrative arrangement had been part of the original Wagner Act. Indeed the administrative monstrosity inherent in dividing the responsibility between the office of the general counsel and the Board, itself, is an evil separate and distinct from the question of the wisdom or lack of wisdom in all the other provisions of the Taft-Hartley Act.

It has been asserted in some quarters that President Truman's action in proposing plan 12 is motivated, not by his interest in governmental efficiency, but by a desire to satisfy the criticism that labor organizations have directed at the present incumbent in the office of general counsel. Such an argument strikes me as very naive. It seems clear to me that the President has shown a deep sense of obligation to the responsibilities of his high office by proposing plan 12 at this particular time. If he had any motive other than the improvement in general administrative efficiency—if his motives were political—the President's easiest course would have been to leave the present structure exactly as it is, so as to permit existing resentment against the Taft-Hartley law to increase between now and November.

But President Truman has not permitted such considerations to affect his judgment. Instead, by proposing structural changes which will immediately increase efficiency in the administration of a statute which he has never favored, he has met his obligations as President, letting the political chips fall where they may.

Had the President failed to propose plan 12, he would indeed have been subject to criticism for leaving the National Labor Relations Board out of a reorganization program which he has proposed for every other important regulatory commission. He would then have disregarded the basic recommendation of the Hoover Commission that the structure of all commissions be changed so that "all administrative responsibility be vested in the Chairman."

This arrangement proposed by the Hoover Commission cannot be achieved at the National Labor Relations Board, as it can at the other commissions, by simply transferring to the Board Chairman those administrative and housekeeping functions now vested in the Board as a whole. Many of the existing functions of the independent general counsel of the National Labor Relations Board must also be transferred—the substantive functions to the Board as a whole, and the purely administrative ones to the Chairman—before there can

be achieved a sound administrative structure.

Of course this involves a substantial reorganization of the National Labor Relations Board. But what is the purpose of the Reorganization Act, under which we are now considering plan 12, if it is not to reorganize?

It is true, of course, that the Hoover Commission did not specifically recommend the elimination of the office of general counsel of the National Labor Relations Board. But neither did the Hoover Commission make such specific recommendations with respect to any regulatory commission or any Government department. The affirmative proposals of the Hoover Commission—and I am proud to be a member of the advisory board of that Commission—are largely general. The important fact remains, and it cannot be successfully denied by those who seek to complicate the issue, that the reorganization measures set forth in plan 12 will bring the National Labor Relations Board in line with the other Federal commissions. Thus plan 12 is entirely consistent with the basic purposes of the Hoover Commission recommendations.

The Hoover Commission task force headed by an outstanding citizen of my State, Mr. Owen D. Young, was extremely critical of the position of the indepenđ general counsel. Following is what the task force says in its discussion of this subject:

> Another problem that has caused us considerable concern is the position of the general counsel. As indicated above, he is a prosecutor, an administrator, a policy maker. The incumbent, Mr. Robert Denham, has noted that his powers "are broad and absolute and his authority final to an outstanding degree seldom accorded a single officer in a peacetime agency." (Quoting from a speech of General Counsel Denham before the American Bar Association in 1947.)
>
> The existence of such an office, independent both of the Federal departmental structure and of the Board, marks a departure from previous administrative practice. If permitted to set a pattern for future Government organization, it may lead to a diffusion of responsibility.
>
> Such an official is in a peculiarly exposed position. In view of the wide powers of the office, it is inevitably subject to heavy pressure from all sides, and lacks the protection of either a multiheaded agency or an executive department in resisting such pressures.

Later in its report, the task force states that—

> Our conclusion is that the present position of the general counsel is an unstable one.

Indeed, Mr. President, in June of last year, as has been repeatedly pointed out, the United States Senate, under the strong urging of the able and distinguished senior Senator from Ohio [Mr. TAFT], approved a bill which would have abolished the independent office of the general counsel of the National Labor Relations Board. The senior Senator from Ohio did not, at that time, regard this particular change in the Taft-Hartley Act as an incidental or improper one. In describing the changes he proposed at that time, he said:

> Perhaps the most important one is the elimination of the independent general counsel.

Mr. President, events in recent months, as recounted in detail by the five National Relations Board members in testimony before the Committee on Expenditures in the executive departments, and as summarized in the minority views of the committee, make it perfectly clear that the situation on the National Labor Relations Board has grown progressively worse. No one, including the general counsel himself, has offered any testimony to show that these difficulties have been eliminated.

Differences between the National Labor Relations Board and the general counsel concerning the exercise of Federal jurisdiction over small business, differences over the processing of cases in the courts, and over the supervision of Board personnel, have grown sharper during recent months. Surely this is not the time for the Senate to recede from a position which it took less than a year ago.

Although the President submitted plan 12 as one of a series of proposals to reorganize the executive branch of Government, the opponents of this plan have seen fit to debate this issue as if it were an isolated attack on the office of the general counsel of the NLRB. The junior Senator from New York is ready to argue the case on that basis, too. It is clear, Mr. President, that this is not a partisan issue. The stand of my colleague from New York [Mr. IVES] and of other Senators on both sides of the aisle bear witness to this fact.

On this issue, I ask the Members of the Senate why the elimination of the independent office of the general counsel, which was thought so suitable in 1949, should not be viewed with equal favor in 1950. Can it be because last year this change was recommended by the Senator from Ohio, whereas this year it is proposed by the President of the United States?

Mr. President, the real issue today is the attitude of Congress on the administrative process itself, a process which has been endorsed by the people of the United States ever since the Interstate Commerce Commission was established in 1887. One witness who opposed plan No. 12 before the Committee on Expenditures was frank enough to declare that this was the issue.

I agree with him that congressional endorsement of present administrative arrangements at the National Labor Relations Board would be an open invitation to chip away at the administrative process throughout the Federal Government. This witness, representing the National Association of Manufacturers, said with commendable candor, that—

> The present separation at the National Labor Relations Board could stand as a testimonial for its extension throughout Government agencies.

Does Congress wish to give such testimonial, Mr. President?

The junior Senator from New York certainly does not. He prefers to take his stand with Monsignor John P. Boland, whom he had the honor to appoint as the first chairman of the New York State Labor Relations Board in 1937. Commenting upon similar proposals for splitting the functions at the State board, Monsignor Boland said, in addressing the Holy Name Society in March 1942:

> When my colleagues and I were appointed to administer the Labor Relations Act, we were appointed to do just that: to administer the Labor Relations Act. By now it should be clearly understood that we were not appointed to prosecute or to judge employers or unions. There was a time when some persons misconceived our function. Ignoring realities, they imagined that the Board combined the functions of prosecutor and judge and declared that these functions should not be combined in a single agency.
>
> Actually, it is not possible for the Labor Relations Board to be both prosecutor and judge, for the simple reason that it is neither prosecutor nor judge. It is only one of many administrative agencies. It merely enforces a public right, because the State legislature has found that there is a paramount public interest in collective bargaining which cannot be either adequately protected by private lawsuit or wisely encouraged by criminal prosecution.

That is my attitude on this question, Mr. President. I think the present setup at the National Labor Relations Board is impossible administratively and dangerous in principle. It is a threat to orderly government. It represents total misinterpretation of the functions of the NLRB and of its general counsel. The function of the National Labor Relations Board, under even the Taft-Hartley Act, is theoretically to stabilize relations between labor and management. The effect of this arrangement is to provide, within the same act, two separate bodies with two separate and conflicting purposes. Let us reject the pending resolution and give our endorsement to plan 12.

Mr. MYERS. Mr. President, I yield 15 minutes to the junior Senator from Connecticut [Mr. BENTON].

The PRESIDING OFFICER. The junior Senator from Connecticut is recognized for 15 minutes.

Mr. BENTON. Mr. President, as all of us in this Chamber know, the report of the Hoover Commission on the Reorganization of the Executive Branch of the Government has almost universal popular support. Indeed, almost all Members of the Congress have pledged themselves to support it. Almost all of us have said that we would work for reorganization.

Former President Hoover has, I think, performed a great service by making government reorganization respectable—at least, respectable with the public, Mr. President.

The Hoover recommendations seem to me to be not only clear and unequivocal on the question of vesting administrative responsibility in the Chairman of the National Labor Relations Board, but, more important—indeed, far more important—these recommendations seem to me valid and sound.

The task force report says that the position of the general counsel has caused them "considerable concern." They quote Mr. Denham's statement that his powers are—quoting now from the task force report—"broad and absolute and his authority final to an outstanding degree seldom accorded a single officer in a peacetime agency."

Mr. President, the very persons who have organized to bring pressure upon us to defeat this proposed reorganization plan, claim they fear a grant of power far less than this to the Chairman and the Board.

When I was appointed to the Committee on Expenditures in the Executive Departments, I looked forward to the opportunity to vote for the various reorganization plans because I felt that their adoption would clear up some of the chaos and confusion. I thought there was a determination in the Congress to eliminate at least some of the inefficiency of the executive branch of the Government.

I have now discovered, of course, that this broad support seems to be limited to the general principle only. It bogs down—as the senior Senator from Ohio [Mr. TAFT] is so well demonstrating—when our pet projects are touched.

Of the 21 plans submitted by the President to Congress, at least 12 are being opposed by special-interest groups. Those of us who serve on the committee are seeing a veritable parade of pious witnesses adopting the line of—

> We are all in favor of reorganization, yes. Go on out and reorganize everybody—everybody except me.

Of course the Congress knew when it passed the Legislative Reorganization Act that many groups would descend upon it to demand changes in the reorganization proposals, in line with their own selfish interests as they saw them. During its work, the Hoover Commission itself was subject to such pressures. It is to the great credit of ex-President Hoover that his firm leadership withstood these pressures. Today it is our turn, here in the Senate, to stand up and be counted. Yesterday ex-President Hoover expressed to us his deep alarm. Today we are voting on a reorganization plan which has been considered fully by ex-President Hoover's Commission. Pages 134 to 141 of the task-force report on regulatory agencies make this very clear. I shall, of course, support Reorganization Plan No. 12, as I shall support every one of the present 21 reorganization proposals.

I digress to salute the New York Board of Trade, Mr. President, and the Junior Chamber of Commerce of Connecticut and elsewhere, as outstanding examples of business groups which have understood the issues, which have withstood the internal pressures upon them from their own members and their own staffs, perhaps, and have recommended just such a course—the support of the 21 proposals.

Mr. President, I desire to give an example, which I think is very illuminating, of a great and powerful trade organization opposing one of the reorganization proposals. I refer to the National Association of Manufacturers. I shall not discuss its attitude on Reorganization Plan No. 12, which is well known. I shall however quote from testimony, in which I participated, on Reorganization Plan No. 5, dealing with the Department of Commerce.

The 15,000 members of the National Association of Manufacturers pay a very high percentage of the high cost of Government inefficiency. I am told that President Hoover once made a general estimate of this cost as being between $3,000,000,000 and $4,000,000,000. It is the National Association of Manufacturers, it is its membership, which contributes a high percentage of the taxes which pay the bills. It is the heads of the 15,000 companies constituting that organization who should understand better perhaps than any other group in the country the principles involved in Government reorganization, and in the case I am about to cite, affecting the reorganization of the Department of Commerce, with its 46,000 employees and its budget of more than $600,000,000, they should have a special interest.

I shall read from the testimony and comment on its as I go along. I refer now to the testimony of George E. Folk, adviser to the committee on patents and research of the National Association of Manufacturers, who was an examiner in the Patent Office for 7 years, beginning in 1898, and who was general patent attorney for the American Telephone & Telegraph Co. until retired 12 years ago. In his testimony Mr. Folk says:

> During the last 12 years—

That is, "since I have retired from the American Telephone & Telegraph Co."—

> more as a hobby than anything else, I have been patent adviser to the National Association of Manufacturers. * * * I am speaking today for that association, a voluntary organization of more than 15,000 manufacturers.* * * The National Association of Manufacturers urges adoption of Senate Resolution 259, which declares that the Senate does not favor the President's reorganization plan—

For the Department of Commerce.

When I had a chance to question Mr. Folk, near the end of his testimony, I asked him several questions. I shall read these questions and his replies, as taken from the printed testimony:

> Mr. BENTON. These manufacturers who are among our biggest taxpayers * * * how may of them * * * had the other side of the case presented to them before agreement was reached on this statement which you submitted in the name of the National Association of Manufacturers?
>
> Mr. FOLK. I can only say that I was authorized by the National Association to take the position I have taken.
>
> Mr. BENTON. How many of the 15,000 members that you list on the first page of your statement have approved this statement?
>
> Mr. FOLK. * * * of course, it was practically impossible, it would be impossible, to do that. I did submit these views to our committee on patents and research of the National Association of Manufacturers. A committee of more than 100 * * * constitute that committee.
>
> Mr. BENTON. You think perhaps those 100 men have been exposed to the memorandum you presented today?
>
> Mr. FOLK. They have not seen the memorandum, but it is the position NAM would take concerning the reorganization plan.

Not even the 100 men, Mr. President, had seen the memorandum.

> Mr. BENTON. If they have not seen the memorandum, would you think it is a fair assumption to say that they have not been exposed to the kind of presentation or arguments presented by Secretary Sawyer, Mr. Fleming, and Mr. Lawton this morning which present the arguments demonstrated, according to those who have studied most thoughtfully, why this particular plan is in the interest of efficiency and economy and the best conduct of this Government?
>
> Mr. FOLK. I did not see the arguments of the Secretary of Commerce, Mr. Sawyer, myself, until today. So I dare say the members of the association did not have any more information than I had.

Mr. President, here there is presented a picture of a great, powerful, rich, and influential trade association at work, and seemingly, as I interpret this testimony, largely in the hands of this staff representative. To begin with, how many of the 15,000 members of the NAM are interested in patents? Surely only a segment. Surely the group is larger which is interested in efficiency in Government, and particularly in efficiency in the Department of Commerce. Suppose there are 1,000 of them interested in patents. Who are the 100 men they put on their patents and research committee? I telephoned this morning and secured the names of some of them. The chairman of the committee is Albert E. Noelte, treasurer of the Priscilla Braid Co. The vice chairman is Merwin F. Ashley, manager of the patent department, United Shoe Machinery Corp. Other members of the patents and research committee are Robert Gottschalk, assistant manager, development and patent department, Standard Oil Co.; Leslie R. Groves, vice president, Remington Rand, Inc.; Richard O. Loengard, president, United Chromium, Inc.; and Randolph T. Major, vice president and scientific director, Merck & Co., Inc.

The great corporations which are interested in patents and which belong to the NAM and pay their dues, put on the patent committee of the NAM their representatives who are charged with the duty of considering patents and who are interested in patents. But did these 100 men, these 100 subordinates, meet and consider Mr. Folk's memorandum? No, they did not meet or consider it. Who did approve it? Was it a subcommittee? Was it three or four men in New York, who operate in the name of the committee? Was it two or three members of the staff of the National Association of Manufacturers? Who is it that is responsible for this attitude on the part of the NAM? I know it is not the presidents and heads of the constituent 15,000 companies. I know that those men, hundreds of whom are within my own circle of personal acquaintances, would approve the principles advocated by former President Hoover and his Commission as recommended in these reorganization proposals.

I shall speak later on today, Mr. President, about Reorganization Plan No. 1. It looks as if the first two plans to come before the Senate will be bowled over like tenpins, and some of the great business and trade associations undoubtedly will carry an important part of the responsibility. I exclude, of course, the New York Board of Trade and certain

other organizations which have courageously spoken in favor of these recommendations.

I, of course, thought this question of reorganization was not a party issue. It is not a party issue to the presidents of the 15,000 companies which I have mentioned.

The Republican Party, in its 1948 platform, pledged itself to support measures to provide for the more efficient assignment of functions within the Government. The plan we are now considering is an important step in that direction. In opposing it, the Republican leadership is running counter to their own platform, as well as running counter to efficiency in the Government. I do not, of course, claim, Mr. President, that this is a unique procedure, but I think it should at least be pointed out to the country.

The Taft-Hartley Act introduced a new concept into the sphere of Government management by creating a double-headed monstrosity for the administration of a single statute. Such a concept is contrary to every principle of sound administration, whether in Government or in private industry.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. BENTON. I shall be glad to yield to the Senator from Ohio.

Mr. TAFT. With reference to double-headed monstrosities, what is the difference between putting all the administrative and executive functions in one man and putting all the judicial functions in a board of five of which he is one member? Is there not as much a diffusion of responsibility there as there is between the board and the separate general counsel?

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

Mr. MYERS. I yield the Senator from Connecticut two additional minutes.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for two additional minutes.

Mr. BENTON. One monstrosity in these marble palaces on the Potomac does not justify another monstrosity. I reject wholly and totally the implications of the question of the distinguished Senator from Ohio.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BENTON. I shall be glad to yield to the Senator from Louisiana.

Mr. LONG. I missed a portion of the Senator's speech. I wonder if, in summing up, he will point out exactly what the Hoover Commission has recommended dealing with this particular problem. The Senator has stated that the Hoover Commission recommended the type of reorganization which is contained in the plan.

Mr. MYERS. Mr. President, I yield five additional minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for five additional minutes.

Mr. BENTON. The Hoover Commission's proposals have been unequivocal, as I have read and studied them. They place as their very first recommendation among their general over-all recommendations the following:

> We recommend that all administrative responsibility be vested in the Chairman of the Commission.

That is all we are talking about today. It is as simple as that, and it is as direct as that.

On page 139 of the task-force report on regulatory commissions it is contended:

> The existence of such an office—

The office which is under debate today, that of the general counsel—

> independent both of the Federal departmental structure and of the Board, marks a departure from previous administrative practice. If permitted to set a pattern for future Government organization, it may lead to a diffusion of responsibility.

The very thing we have to have in order to assure efficient administration is fixed responsibility. That is what we do not have here now in the case of the National Labor Relations Board. The act which established the National Labor Relations Board failed to provide the responsibility of which we are now speaking, and we are seeking to secure effective administration through this reorganization proposal.

Mr. President, I hope the Senate will have the courage, as well as the good judgment, to defeat the resolution which is now pending. I am confident that if the Chamber were full and the Members were exposed to these issues and had an opportunity to consider them and to consider the elements involved in the opposition to this reorganization plan, the Senate would reject the resolution. Its defeat will be a heartening development to friends of good government, not only at the national level, but, more important than that, at the State and community level as well. The adoption of the resolution, Mr. President, will encourage every privileged group with selfish interests to move in against the other plans which are yet to come before the Senate, and to bludgeon their own selfish views upon the United States Congress.

Mr. President, I yield the floor, though I do not see the majority leader present at the moment.

The PRESIDING OFFICER. The Chair will state that the acting majority leader has informed the Chair that 20 minutes' time is yielded to the senior Senator from Utah, who is now recognized.

Mr. THOMAS of Utah. Mr. President, I rise in opposition to Senate Resolution 248. As a preface to my remarks I desire to read two quotations. The first is taken from Chairman Herzog's report, and it answers one of the questions which has been asked:

> The plan is the President's plan. It was proposed so that the National Labor Relations Board would not continue to be the only regulatory commission whose administrative structure would be different from the one recommended, without exception, by the Commission on Organization of the Executive Branch of the Government. Second, the plan was proposed by the President because it will make for sound and efficient administration, not only of the present statute but of any regulatory statute, whether concerned with labor relations or with any other policy of Congress. We support it for the same reasons, and for these reasons alone.

Those are the words of Mr. Paul M. Herzog, Chairman of the National Labor Relations Board.

Mr. President, I now quote the words of the task force with regard to the general counsel:

> Another problem that has caused us considerable concern is the position of the general counsel. As indicated above, he is a prosecutor, an administrator, a policy maker. The incumbent, Mr. Denham, has noted that his powers "are broad and absolute and his authority final to an outstanding degree seldom accorded——

Mr. LONG. Mr. President, will the Senator yield?

Mr. THOMAS of Utah. I yield for a question.

Mr. LONG. Whom is the Senator quoting?

Mr. THOMAS of Utah. I am quoting the task force report to the Hoover Commission. The quotation last made would be a quotation within a quotation. It is a quotation from Mr. Denham in speaking before the labor committee of the American Bar Association in 1947. The quotation begins with these words:

"are broad and absolute, and his authority—

Referring to the general counsel—

"final to an outstanding degree seldom accorded a single officer in a peacetime agency."

> The existence of such an office, independent both of the Federal departmental structure and of the Board, marks a departure from previous administrative practice. If permitted to set a pattern for future Government organization, it may lead to a diffusion of responsibility.
>
> Such an official is in a peculiarly exposed position. In view of the wide powers of the office, it is inevitably subject to heavy pressure from all sides, and lacks the protection of either a multiheaded agency or an executive department in resisting such pressures.

Mr. President, I should like to say here that during all the hearings upon the amendments to the Taft-Hartley Act, time and time again witnesses, including Mr. Denham himself, emphasized the point that the power reposed in him was really and truly so overpowering that at times he himself wondered about it. So, it is perfectly proper that the task force would wonder about giving him those great powers.

> Experience during the first year indicates a tendency to develop close working relations with the joint congressional committee established by the act. To the extent that this has involved advice and suggestions with respect to interpretation of the act and its application to specific situations, the practice seems doubtful and likely to blur the desirable separation between the legislature and administration.

I should like to add, Mr. President, that while I was not a member of the subcommittee, which was called the watchdog committee, during the first year, if one member of an administrative authority and a committee of Congress do not agree, there cannot help being a division of opinion which, if carried to an extreme, must work disastrously in the administration of law. I

do not say that it was carried to an extreme, but I should like to point out that a device was set up by law which might make administration itself a very doubtful proposition, and might not only throw the general counsel against the Board, but might actually throw a committee of Congress in favor of either the Board or the general counsel when a situation might arise, as one did arise.

But the administrative position of the general counsel is also anomalous. Thus the field offices under his supervision are engaged partly in representation work which is the direct responsibility of the Board, and partly in investigating, issuing, and prosecuting complaints, on which the general counsel has final authority. Under the act, the Board has the authority to appoint the regional directors and other employees. In part, as has been seen, the work of the general counsel is essentially prosecution of violations of specific offenses under the act. But insofar as his actions establish policy, they are of the kind frequently assigned to an independent commission.

The unusual position of the general counsel has given rise to several internal administrative problems. One is significant enough to be noted here: In unfair-labor practice cases, regional directors issue complaints, though only with the approval of the general counsel in some types of cases. The finality of refusal to issue a complaint has led to demands for an appeal; and it has been further urged that an appeal to the same unit in the counsel's office whose advice was followed in the original refusal is illusory, and that the appeal should be to an independent body. This problem highlights the nature of the authority the general counsel is exercising.

Our conclusion is that the present position of the general counsel is an unstable one. Various proposals have been made for integrating the position more securely into the Government structure. Some have suggested assigning him to the Department of Labor or of Justice, but each has serious draw-backs as the preceding discussion of his functions should indicate.

Mr. President, I imagine that the President of the United States, in making his recommendation, undoubtedly followed the philosophy as expressed by the task force.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. THOMAS of Utah. I yield.

Mr. TAFT. The Senator has read all the task force report except the recommendations, which are absolutely contrary to the President's proposed plan No. 12. It seems to me that the Senator should read the last two paragraphs, which suggest that there should be some changes made, but absolutely different from those recommended by the President.

Mr. THOMAS of Utah. I understand that. However, I do not have the other paragraphs before me, so that I cannot read them. If the Senator from Ohio wishes to have them in my remarks, I am agreeable that he read them at this point.

Mr. TAFT. The last two paragraphs read:

Our staff recommends the creation, by Executive order, of a council of labor under the chairmanship of the Secretary of Labor, and including the general counsel and other Federal officials concerned with labor problems. The functions of the council would be to coordinate Federal labor policy and to advise the President of appropriate action. This represents a compromise between the present independent status of the General Counsel and his subordination to a department head.

Others have strongly urged that the office should again be placed under the Board. To this the objection is made that the prosecuting functions should be separate from the hearing of complaints. But as has already been indicated, only in part are his present duties genuinely prosecution; some parts are administrative and parts a species of rule or policy making. It may be that the administrative and policy-making functions could be subordinated more clearly to the Board's control while still maintaining an adequate separation of the truly prosecuting activities.

So the one thing the report does not do is recommend the abolition of the general counsel.

Mr. THOMAS of Utah. I think that was covered to my satisfaction, at least, in my remarks in the last paragraph, which I quoted. I quote it again to show that there is no difference of opinion on that point:

Our conclusion is that the present position of the general counsel is an unstable one.

That is a criticism, Mr. President. It is the type of criticism which I show in my few remarks.

Various proposals have been made for integrating the position more securely into the Government structure.

Which is another criticism of the way in which the general counsel is operating.

Some have suggested assigning him to the Department of Labor—

To which an answer is indicated in the paragraph which the Senator from Ohio read—

or of Justice—

Which is also answered—

but each has serious drawbacks as the preceding discussions of his functions should indicate.

Mr. President, because the issues raised by Senate Resolution 248 threaten to be obscured, I feel compelled to take up the time of the Senate in order to define those issues in such a manner as to make them unmistakable. I undertake this duty, Mr. President, with considerable reluctance because it was my hope that the President's Reorganization Plan No. 12 would receive the support of the large majority of the Senate. This hope was based upon the action of the Senate in passing only last session that provision of S. 249, which eliminated the general counsel's office.

I find now that what we thought last session was a recognition of the lesson of experience was merely an offer of compromise. And so we are now faced with a withdrawal of that offer when the issue of the continuation of the general counsel's office is again presented to us.

At the time the Taft-Hartley Act was passed, both supporters and opponents recognized that the act created powers of extraordinary scope in the field of labor-management relations—for the act sought to prescribe rules which covered a wide and important area of industrial relations. Responsibiilty for the administration of a large portion of those powers was vested in the statutory office of the general counsel.

The issue which is here presented is whether these extraordinary powers shall continue to be vested in a single individual, or whether the exercise of those powers shall be subject to the collective wisdom of five Board members whose administration would be properly safeguarded by the provisions of the Administrative Procedure Act of 1946. This is the issue—one-man rule versus the collective wisdom of a regulatory body of five.

Mr. President, I am as sure as I can be that when the Taft-Hartley bill was discussed on the Senate floor and was originally passed, no one, no matter how much he supported the bill, expected to see the general counsel assume the authority he has assumed, and carry on in the way in which he has carried on. It was not opposition to the Taft-Hartley law in and of itself, it was opposition to the way in which the general counsel administered his office, that undoubtedly caused even the supporters of the Taft-Hartley law to recommend the type of amendment which was recommend, and caused the Senate of the United States to accept the recommendation, as it did accept it when it passed the amendatory measure last year.

I should think that there could be only one answer for the Members of the Senate—the elimination of the general counsel's office, and the return of the National Labor Relations Board to the family of regulatory agencies subject to the uniform scheme of organization prescribed by the Administrative Procedures Act.

There have been many charges leveled against the present incumbent of the general counsel's office. I do not desire, at the present time, to pass judgment on these charges. But the Members of the Senate must recognize that the powers of the general counsel's office are such that if an incumbent has any predisposition toward unreasonableness or arbitrariness, that office lends itself to the unfettered expression of such tendency. This is the danger of vesting extraordinary powers in the hands of a single individual.

Mr. President, I should like here to quote again the very words of the general counsel himself, where he points out that his powers are broad and absolute. That is what Mr. Denham thinks of his own job, that the powers are absolute. Those are words which are not very often used in connection with an official of the Government of the United States. His authority, says Mr. Denham, is to an outstanding degree authority seldom accorded a single officer in a peacetime agency.

Mr. President, it is that against which I am talking, it is that which the President of the United States is trying to correct. That affords the reason why I urge the Senate to vote against the pending resolution.

The issue, I repeat, Mr. President, is not the substantive rules governing labor-management relations, but whether a substantial responsibility for the administration of those rules is to be

vested in one man or in the collective judgment of five. Here is a test for those Members of the Senate who declared when they supported the Taft-Hartley Act in 1947 that they recognized that it had defects and would, when given the opportunity, vote to remedy those defects. The Senate did vote to remedy the defect in regard to this condition.

The choice, I emphasize, Mr. President, is not between the separation of functions prescribed in the Taft-Hartley Act and no separation. The choice is between the discord breeding organization of the Taft-Hartley Act and the structure prescribed by the Administrative Procedures Act. The latter act represents the considered and informed judgment of the Congress respecting the problem of mingling of functions in administrative agencies and ensures fair administrative procedure.

The Congress, when it enacted the Administrative Procedures Act, chose one particular method, out of several possible ones, for meeting the problem of separation. In general this method was to provide detailed and carefully thought out basic procedures for the conduct of hearings and formulation of decisions (sections 7 and 8); to provide for a complete internal separation in the administrative agencies of personnel who participate in the investigation or prosecution of particular cases from those who participate in or are consulted respecting the decisions of such or related cases.

Mr. TYDINGS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Maryland?

Mr. THOMAS of Utah. My time is about up.

The PRESIDING OFFICER. The Senator from Utah has approximately 1 minute more.

Mr. MYERS. I yield the Senator from Utah three additional minutes.

The PRESIDING OFFICER. The Senator from Utah is recognized for three additional minutes.

Mr. TYDINGS. Mr. President, I have to attend to some duties at another place, as a member of a subcommittee, and, therefore, my time is very limited. My reason for asking the Senator to yield is that I desire to ask the able Senator from Ohio a question.

Mr. THOMAS of Utah. I yield.

Mr. TYDINGS. My recollection is that when we had before us the Taft-Hartley law amendments the Senator from Ohio offered an amendment dealing with the particular phase of the matter we are now discussing. Am I wrong about that?

Mr. TAFT. Mr. President, I expect to speak on that later. I agreed, in a series of amendments, to an amendment which returned the general counsel's power to the general power of the Board. The plan now being discussed turns his powers over to the Chairman of the Board, and makes the Chairman of the Board, in my opinion, an infinitely more powerful figure than the general counsel has ever been. At the time the amendments were considered, I, myself, did not agree with that change, but I finally consented, as a matter of compromise, in connection with the entire amending bill we than had before us.

I have introduced a bill to correct one or two of the particulars in which I think the present system is wrong. I think that bill should be considered by the Committee on Labor and Public Welfare at this session, and should be passed, in order to eliminate some of the proper criticisms which are made against the present system. In my opinion, what I agreed to was very different from what is proposed in the pending plan.

Mr. TYDINGS. I thank the Senator. If the Senator from Utah will bear with me for a moment more, I recall the situation, but I was not sure as to the form in which the amendment was offered.

May I ask the Senator whether he does not think that if the proposal he has suggested were so couched that the general counsel would be responsive to the whole board, rather than independent, it would be a better proposal than the one we are about to vote on?

Mr. TAFT. It would be better than the one we are about to vote on, but I do not think it would be the best, because it would subordinate the general counsel to the Board, and I think he ought not to be subordinated. When he is under the entire Board, it is true that as a practical matter he is fairly independent. If he is under one man, he has to consult him on every question and every proposal. I think it is far better to have him completely separated. The bill I have introduced separates him completely. It undertakes to define clearly what he shall do and what the Board shall do, so as to eliminate the uncertainty of the present law, as well as the difficulty which has arisen, namely, a case being brought, and then a year later the Board saying they think the counsel made a mistake about the jurisdiction. That is taken care of in my new bill by providing that there may be an immediate appeal on the question of jurisdiction of the Board, so that that question may be settled at once, before the case goes any further.

I myself would be opposed to doing what with a great deal of reluctance, as I indicated on the floor of the Senate I agreed to do last year, because I do not think it is the best method of dealing with the situation. We did not have time last year to work the matter out properly. I have now done so, at least to my own satisfaction, and have introduced a bill which is before the Committee on Labor and Public Welfare. I think the way to deal with this question is before that committee.

Mr. TYDINGS. Mr. President, my reason for asking the Senator the question is that I think, without looking at the RECORD, that I supported the Senator last year.

Mr. TAFT. That was only one of some 28 amendments to the law, to meet particular criticisms, and I tried to compromise the whole suggestion, and agreed to some things I did not care particularly to agree to. But I think that was better than the plan now proposed.

Mr. TYDINGS. I thought the Senator proposed to deprive the counsel of his completely independent status. I think there was a yea-and-nay vote, and I believe that on the vote I supported the Senator from Ohio on that proposal.

Mr. TAFT. There was no separate vote on that item. It was one of 28 amendments embodied in the substitute bill.

The PRESIDING OFFICER. The time of the Senator from Utah has expired.

Mr. MYERS. Mr. President, I yield five additional minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for five additional minutes.

Mr. THOMAS of Utah. Mr. President, I am glad the discussion has taken place. It has in a sense greatly clarified what I wished to bring before the Senate. It has brought into focus what I wished to present. A condition now exists which no one likes. The Senate has actually passed a measure which showed that the Senate did not like the condition which exists. Yet there has been no reformation. Now a suggestion of a change is made. If the resolution now before the Senate is adopted, Mr. Denham will have two declarations on the part of the Senate of the United States which, to his way of thinking, his notion, sustain him in his belief in his absolute power, his absolute authority.

Mr. President, in the light of what has taken place heretofore, in the light of the present discussion, in the light of the amendments of the Senator from Ohio, in the light of the remarks made by the Senator from Ohio today in response to the remarks of the Senator from Maryland [Mr. TYDINGS], I doubt very much whether any Senator present can stand here and say that a vote to sustain the pending resolution is not a vote to tell Mr. Denham that his method of administration, his ideas of his absolute authority, his ideas respecting his authoritarian powers, his ideas of his completely independent status so he can act as he pleases, are correct, and that he may continue to do as he has done, and not be checked.

Mr. President, I believe that never has the Senate had before it a more practical proposal on which to act than the one now pending. The Senator from Ohio tells the Senate that he has another amendment to the law to submit, a different amendment. The Senator from Ohio tells us that the plan submitted by the President will give the Chairman of the Board too much authority. Perhaps it will. The Chairman can never argue a case against himself and become a prosecutor against himself. The other members of the Board will see to it that he can never do so.

We are considering a situation which ought to be remedied, yet it seems that some Senators are now opposed to remedying the very bad situation.

Mr. President, I had previously said that the Congress, when it enacted the Administrative Procedure Act, chose one particular method, out of several possible

ones, for meeting the problem of separation. In general this method was to provide detailed and carefully thought out basic procedures for the conduct of hearings and formulation of decisions—sections 7 and 8; to provide for a complete internal separation in the administrative agencies of personnel who participate in the investigation or prosecution of particular cases from those who participate in or are consulted respecting the decisions of such or related cases—section 5 (c); to give hearing officers a more important role than that of merely sitting to conduct a hearing and receive evidence, by requiring that they make either the initial or recommended decision of the cases on which they sit; and to insure that the hearing officers' decisions reflect their genuinely independent views, by giving hearing officers security of tenure and salary during good behavior, protected by the Civil Service Commission, and independent of the recommendations or ratings of the particular agencies to which they might be attached—section 11.

Mr. President, if we vote to sustain the resolution and if the office of the general counsel remains as it is, we vote against ourselves again, and we vote against the philosophy of the Administrative Procedure Act.

I think the decision to be made is clear. It was indicated by the action of the Senate when it unanimously passed the Administrative Procedure Act in 1946. It was confirmed by the Senate when it approved S. 1126, the Taft bill, in 1947 which made no provision for a separate office of the general counsel. And it was reinforced by the action of the Senate when it voted only last year to eliminate the office of the general counsel.

Mr. President, I for one will heed the call of experience and vote in support of the President's Reorganization Plan No. 12 and in opposition to Senate Resolution 248.

Mr. TAFT. Mr. President, I yield 10 minutes to the Senator from Louisiana [Mr. ELLENDER].

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 10 minutes.

Mr. ELLENDER. Mr. President, until today I have not voted against any reorganization plan which the President of the United States has submitted to the Congress pursuant to the so-called Hoover Commission reports.

As I understand, this plan is not in accord with the recommendation of the Hoover Commission, as the report of the Commission itself shows that that body at no time recommended that the separation of judicial and prosecuting functions, which I consider one of the major reforms of the Taft-Hartley Act, should ever be done away with so far as procedure before the National Labor Relations Board was concerned.

Although this statement has been challenged, all that any Senator who has any doubts on the subject need do, is to look at the text of the Hoover Commission report. Moreover, Mr. Hoover himself has removed any possible doubt on this score by his telegram in which he stated that at no time had the question of merging the prosecuting and judicial functions of the Labor Board ever been considered or acted upon by the Commission.

What we are voting on today, Mr. President, is really a substantive amendment to the Taft-Hartley Act, an amendment which, to my mind, goes to the very core of the act. The Congress is being asked to do indirectly what it refused to do directly during the first session of the Eighty-first Congress.

My position on the Taft-Hartley Act is well known. I was a member of the Labor Committee which reported the bill, and was appointed by the minority as one of the conferees. In my judgment, a vote for Reorganization Plan 12 is a vote to repeal a substantial portion of the Taft-Hartley Act under the false guise of improving the efficiency of the Labor Board.

It is a strange paradox, Mr. President, to find that the Members of this body who were most vociferous last year in insisting upon the repeal of the act are now the ones who profess the greatest concern with what they claim to be a breakdown in the efficiency of its administration. They tell us that because the general counsel has independent authority to initiate all prosecutions under the act and that because the Board disagrees with him on some cases, the provisions and policies of the act could be more efficiently carried out if all power were concentrated again in the Board, as was provided for in the lopsided Wagner Act which Congress repealed two sessions ago.

What the proponents of Reorganization Plan 12 fail to say, however, is that the area in which the Board and the general counsel are in disagreement is with respect to cases in which the general counsel has taken a position in favor of vigorous enforcement of the act. But it is in those very few cases that the Board is refusing to carry out the mandate of Congress by giving full effect to the provisions of the new law to the extent that it modified the one-sided character of the Wagner Act.

Let me give the Senate one illustration:

One of the major provisions in the Taft-Hartley Act is the section which denies the facilities of the Labor Board to labor organizations or any organizations affiliated with them unless all the officers file affidavits disclaiming membership in or sympathy with the Communist Party.

The enactment of this section was intended by Congress to put a stop to the dangerouse infiltration of labor unions by Communist leaders. Its purpose was to put the Communists and fellow travelers of Communists on the spot with the overwhelmingly patriotic rank and file membership of the major labor unions in this country, for if they refused to sign the affidavits it would be clear to the members of unions that they were in effect Communists. Thus the membership could wield their power to drive them out of union office.

When the act went into effect, Mr. Denham, the general counsel of the Board, ruled that the requirement for signing Communist disclaimers applied not only to the officers of particular unions but to all officers of the AFL and CIO. Indeed, it is difficult to see how he could have made any other ruling, since there are scores of Labor Board decisions holding that the AFL and CIO are themselves labor organizations.

Shortly after that the AFL, meeting in convention, instructed all its officers to sign these affidavits. The Board, however, reversing Mr. Denham, held in the Northern Virginia Broadcasters case that this requirement applied only to constituent unions of the AFL and CIO and not to the top officers.

As a result, many CIO unions were permitted to file charges and petitions for election with the Labor Board even though the top officialdom of the CIO, until 3 or 4 months ago, were not in compliance with the act.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. TAFT. I yield two additional minutes to the Senator from Louisiana.

Mr. ELLENDER. I thank the Senator.

Mr. President, in one of these cases involving an employer in Texas, the Postex Co., this ruling was carried to the Circuit Court of Appeals. Last week in New Orleans the court of appeals held that the Board had no jurisdiction to take the case and that the Board erred in overruling Mr. Denham. In other words, the court found that Mr. Denham, not the Board, was giving effect to the statute. The result of this decision, of course, is that the validity of hundreds of orders and certifications which were issued by the Board in the last 2 years has now in effect been invalidated, and the labor situation in these companies is chaotic, to say the least.

It is true that the Board itself favors return to the old system under the Wagner Act about which the Senate Labor Committee heard so many complaints for many years. Such an attitude is hostile to our whole judicial system. Indeed, the logic of the Board's position would recommend a future reorganization plan to eliminate any judicial review of their own orders, if that were possible, so as to achieve the highest degree of administrative efficiency.

The Congress separated the Board's prosecuting and judicial authority because it lacked confidence in the form of organization which combined them. Circumvention of the statute is now proposed under the guise of mere executive reorganization. The Board members' unseemly grasp for power and their avowed will to personal domination of our labor policy do not persuade that Congress was wrong. Reorganization Plan No. 12 should be rejected. Accordingly, I propose to vote for the pending resolution.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

If he does not care to use time at this point, the Senator from Pennsylvania is recognized.

Mr. MYERS. Mr. President, I yield 5 minutes to the Senator from Arkansas [Mr. FULBRIGHT].

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the remarks which I shall make at this time may appear in the RECORD at the conclusion of the proceedings in connection with the pending question.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Under the foregoing order, Mr. FULBRIGHT's remarks appear in the RECORD following the proceedings on Senate Resolution 248, under the heading "Steps toward federation of the western European countries.")

Mr. MYERS. Mr. President, I yield 10 minutes to myself.

Mr. President, I have no intention of making a detailed analysis at this time of reorganization plan No. 12 and the circumstances which render the adoption of this plan a necessity if we are to have efficient, just operation of the Labor-Management Relations Act of 1947.

However, I should like to make a few comments in regard to the disturbing manner in which the plan has been attacked. As the senior Senator from New York [Mr. IVES] so well put it when he announced, a while back, his support of this plan:

> One might gather that this plan, if allowed to become effective, would destroy the Taft-Hartley Act and constitute a great victory for labor over management. These implications * * * are unjust and unfounded. * * * They reflect a state of mind and attitude which can never produce a sound and equitable labor relations statute in this country.

Mr. President, I have quoted those words from the speech delivered by the senior Senator from New York.

So, Mr. President, in view of all the confusion which prevails, I think it is highly important to make clear just what this plan does not do, because I think some statements have been made on the floor of the Senate today which might mislead Senators. If such statements are misleading, I know it is not intentional. Nevertheless, if accepted in toto, I think they would mislead Senators.

In the first place, Reorganization Plan No. 12 does not assign to the Chairman of the National Labor Relations Board all the powers now held by the general counsel.

I recall that the Senator from Ohio, in response to a question asked by the senior Senator from Maryland [Mr. TYDINGS], stated that this plan differs from the provision contained in the amendment to the Taft-Hartley Act; and it is my recollection that just a few moments ago the Senator from Ohio said that this plan assigns to the Chairman of the National Labor Relations Board all the powers now held by the general counsel.

Mr. President, that simply is not so. The Chairman of the Board would take over only the executive and administrative functions of the Board, including, specifically, functions with respect to, first, appointment and supervision of personnel; second, distribution of business among personnel and among administrative units; and, third, the use and expenditures of funds. Even in carrying out these purely "housekeeping" duties the Chairman is to be "governed by the general policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make."

Mr. TAFT. Mr. President, will the Senator yield?

Mr. MYERS. I am happy to yield, of course.

Mr. TAFT. What powers are there other than the administrative and executive powers except judicial and legislative powers?

Mr. MYERS. I am coming to that point now.

Mr. TAFT. Does not plan No. 12 propose to give to the Chairman of the Board complete power, including something which the general counsel does not have now, namely, the right to employ all personnel?

Mr. MYERS. Mr. President, Mr. Herzog in his testimony on Reorganization Plan No. 12 had something to say on that subject. He said—and I quote now from page 114 of the hearings before the Committee on Expenditures in the Executive Departments, held on April 4, 5, and 6, 1950:

> It has become essential, at the outset, to correct one complete misconception of the plan which appears in recent statements by Senator TAFT, a misconception which he says has influenced his own change of position since 1949. He evidently believes that plan 13 vests many prosecutory and policy-making powers in the Chairman of the Board, and adds that he would not "object to the plan so much" if these powers were transferred to the Board as a whole. A reading of the plan itself should allay the Senator's fears, and any which his statement may have generated in others.
>
> The facts are as follows: The only additional functions the plan assigns to the Chairman of the National Labor Relations Board, whether now vested in the general counsel or in the Board members, are the purely administrative and housekeeping ones assigned to the Chairmen of all seven Commissions covered by plans 6 to 13. The very wording of the plan itself makes it clear, that all investigatory and regulatory functions will be vested at this Board—precisely as they will continue to be vested at the other Commissions—not in one man, but in the five men who comprise the entire Board.
>
> Section 3 of plan 12 transfers "all functions of the general counsel" to the full Board, except for those purely "executive and administrative functions," which are transferred to the Chairman for purposes of convenience and efficiency.

I think a smoke screen has been thrown up, Mr. President, perhaps a sort of little iron curtain, which it is a bit difficult to pierce.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. MYERS. I am happy to yield.

Mr. LUCAS. Perhaps the Senator has elaborated upon this query, but why is it that this one Commission is selected, as it is, under the resolution offered by the Senator from Ohio, while every other commission of the Government operates in exactly the way the President of the United States is trying to have the National Labor Relations Board operate under the reorganization plan? Can the Senator tell me the reason for that?

Mr. MYERS. Really I can see no logical reason for it, because that which is attempted and which has been accepted in respect to other commissions is practically the same as in plan No. 12. Whether pride of authorship has anything to do with it, frankly I am at a loss to say.

Mr. LUCAS. Mr. President, will the Senator yield further?

Mr. MYERS. I am happy to yield.

Mr. LUCAS. How far does the Senator from Pennsylvania think we would get, or any Senator would get, if he offered a resolution doing to the other seven Government commissions what is sought to be done to the National Labor Relations Board?

Mr. MYERS. He certainly would not get very far.

Mr. LUCAS. We would be the laughing stock of the country if we were to attempt to do that.

Mr. MYERS. So I repeat that under section 3 of the reorganization plan all functions of the general counsel not transferred by provisions of section 1 are transferred to the Board. Functions thus going to the entire Board would include, I repeat, the investigatory or the complaint-bringing operations of the present general counsel's office. We would then no longer be operating under a labor relations setup which gives one man, as the senior Senator from New York mentioned earlier today, "broad and absolute powers" and "authority, final to an outstanding degree, seldom accorded a single officer in a peacetime agency." The above description of the present duties of the general counsel is his own, Mr. President. That is, it is the opinion of the general counsel, as stated in an address before the American Bar Association.

There are other things the reorganization plan does not do. It does not revise or do away with or weaken any of the provisions of the Labor-Management Relations Act of 1947, which were aimed at regulating union activity. There, again, there has been much propaganda, Mr. President, and much mail coming to the offices of Senators, because some employers have been misled and have been misinformed by certain organizations and groups as to the end effect of this reorganization plan. It would still be an unfair labor practice for a union to engage in a secondary boycott. It would still be necessary, if this reorganization plan were accepted, for unions to give 60 days' notice before going on certain strikes. It would still be necessary for union officials to sign non-Communist affidavits. It would still be unlawful for a labor union to make contributions to political campaigns.

There has been a great deal of discussion in connection with Reorganization Plan No. 12 regarding the dangers of having the same group act as judge and as prosecutor. I am convinced that the operation of the Administrative Procedures Act will prevent any injustice along those lines.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

Mr. MYERS. I yield myself five more minutes, Mr. President.

I think it cannot be emphasized too strongly that we cannot handle labor-management relations as we handle criminal prosecutions. We are not seeking convictions, I hope, Mr. President. We are aiming at a peaceful relationship between the forces of labor and the forces of business.

Let me read to the Senate a portion of the testimony of Paul Styles, newly appointed member of NLRB, given in support of this reorganization plan. Mr. Styles has had many years' experience in this field as a regional attorney, both under the Wagner Act and under the Taft-Hartley Act. He says:

I do not think a legalistic, prosecuting approach to labor relations is the approach intended by Congress. * * * One of the great weaknesses of the general counsel concept has been the difficulty of administration at a regional level, because people wanted to litigate; people said, "This is a statute under which you prosecute. Now get out there and prosecute."

The whole approach of the Board in the past, of all its regional offices, was, "Let's get the public," the employer back in those days, "to comply with the law. Let us talk him into complying with it. Let us settle these cases if we can."

I noticed in my own regional office that the minute the new act was passed, there was a tendency on the part of everyone, not confined only to attorneys who ordinarily like to go to court * * * but the field examiners themselves, the people who really do the work of the Board, to say, "Let us litigate." They dropped their settlement efforts to a large degree.

So, Mr. President, let me point out that this plan was in effect aproved in both the majority report and in the views of the minority members of the Committee on Labor and Public Welfare last year. Notwithstanding the statement of the Senator from Ohio which was made a little earlier, every member, as I recall, with the exception of the senior Senator from Missouri [Mr. DONNELL], who stated he was reserving his opinion on this point, voted for such a change in functions and such a change in administrative organization.

Reorganization Plan No. 12 has unfortunately become a much befogged issue.

The PRESIDING OFFICER (Mr. DONNELL in the chair). Will the Senator, in view of the fact that he has mentioned the senior Senator from Missouri, permit the Chair to state that he thinks the senior Senator from Missouri reserved the right to present an amendment embodying the views to which the Senator has referred?

Mr. MYERS. I knew the Senator reserved the right, and I believe all the other members, both minority and majority members of the committee, approved of the plan.

Reorganization Plan No. 12 has unfortunately become a most befogged issue. But I feel certain that if the Members of the United States Senate really understand the issues that are involved here—the efficient and just administration of our Labor-Management Relations Act—we will approve the President's plan.

Then, too, Mr. President, the senior Senator from Arkansas [Mr. MCCLELLAN] read into the RECORD a telegram addressed to the Senator from Ohio [Mr. TAFT] by former President Hoover, himself, Chairman of the Hoover Commission. In that telegram, former President Hoover said:

So far as I recollect, this subject was never discussed by the Commission.

Mr. President, I am at a loss to understand why the Commission never discussed this subject, which was such an important subject, and to which the task force devoted eight pages of its report. Former President Hoover may not have any recollection of it, but I feel certain the Hoover Commission considered the task-force recommendations. They may have been a little too hot for the Commission. There may have been some reason for their doing nothing about them. They certainly did not disapprove the task-force recommendations, although they did not approve them; they merely let them alone. But it seems to me strange that the Commission would never even consider the study which had been made by its own task force.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. MYERS. I yield.

The PRESIDING OFFICER. The Chair advises the Senator from Pennsylvania that his time is up.

Mr. MYERS. I yield myself three more minutes.

The PRESIDING OFFICER. The Chair makes allowance for the few seconds during which the Chair interrupted the Senator.

Mr. LUCAS. Is it not more strange, when the Senator thinks of the extensive debate which took place in the Senate and in the House upon this question in the past, and the debate we are having now, that the Hoover Commission never even gave it consideration?

Mr. MYERS. It is strange, indeed, very strange, and I hope the Citizens' Committee for the Hoover Commission report will watch these votes, and will see just what is being done to emasculate and destroy to some extent many of the recommendations of the Hoover Commission, which the President himself has submitted to the Congress.

Mr. President, I should like to close by inserting at this point in my remarks an editorial from the Washington Post, dated April 19, 1950, entitled "NLRB's Split Personality." It is an excellent editorial, and it closes with this paragraph:

In our opinion, the proposed plan entails no changes in the present set-up that cannot be justified as a proper exercise of the authority given the President by Congress to reorganize the executive establishments. This reform is imperatively needed to eliminate the friction, uncertainty, and delays resulting from the present two-headed administration of the law.

I ask unanimous consent that the entire editorial be printed in the RECORD at this point in my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NLRB'S SPLIT PERSONALITY

Last week the Citizens Committee for the Hoover Report withheld endorsement of Reorganization Plan No. 12 abolishing the office of general counsel of the National Labor Relations Board and assigning his functions to the Board and its Chairman. Now the Senate Committee on Expenditures has rejected the plan. The citizens committee said that the plan to abolish the office of general counsel raises issues that are not wholly organizational, but are matters of national, political, and economic policy.

Others argue that the latter proposal entails changes in the Taft-Hartley Act which the administration has vainly tried to repeal. This objection seems far-fetched, although Mr. Denham's supporters have, no doubt, used it to good effect in their effort to discredit the plan. Even Senator TAFT admits that the present arrangement is defective. Last year he voted for an amendment to the act bearing his name that would have returned to the Board the powers exercised by the general counsel, although he is now opposing the reorganization plan. Furthermore, he concedes that there is no direct legal objection to the proposed shift of functions.

The existing extreme separation of functions has given rise to friction between the Board and the general counsel and has seriously interfered with effective enforcement of the law. In unfair labor practice cases, for example, the general counsel alone determines whether to issue a complaint, and in determining whether or not to do so he need not be guided by the Board's previous rulings. Chairman Herzog says that cases have been sent to the Board by the general counsel with the full knowledge that he would dismiss them later. The result is that both labor and management are confronted by a double standard, the work of the Board is needlessly increased, and litigation before the courts is encouraged. The Board also charges that employees in its regional offices under the supervision of the general counsel have been gradually losing their identity as agents of the Board even in handling representation cases.

The present set-up of the NLRB was a laudable attempt to separate the prosecuting from the judging functions of the agency. In practice, however, this division of functions has done infinitely more harm than good. Under the reorganization plan internal adjustments would prevent any official from acting as both prosecutor and judge. The chief difference would be that the Board would be in a position to exercise general supervisory powers over prosecuting activities, and prevent conflicts that impair its efficiency as a regulatory agency.

In our opinion, the proposed plan entails no changes in the present set-up that cannot be justified as a proper exercise of the authority given the President by Congress to reorganize the executive establishments. This reform is imperatively needed to eliminate the friction, uncertainty, and delays resulting from the present two-headed administration of the law.

The PRESIDING OFFICER. In order that there may be no misunderstanding, the Chair would like to read from page 91 of the minority views, report 99, part 2, with reference to Senate bill 249:

My concurrence in the above minority views is subject to the fact that (a)—

That has no application to the present matter—

and (b) may conclude to present an amendment providing for appointment by the President, with confirmation by the Senate, of a general counsel, defining his duties and powers with possibly some limitation, not found in the Taft-Hartley law, as to said powers.

That is signed "FORREST C. DONNELL."

Mr. MYERS. Mr. President, I merely mentioned the name of the Senator from Missouri because I had indicated that

both the majority and the minority had favored the amendment, but the senior Senator from Missouri did not give it his complete blessing and reserved the right to offer an amendment or to vote against it.

The PRESIDING OFFICER. The Chair appreciates the courtesy of the Senate in permitting the Chair to read the quotation which he read for the purposes of absolute accuracy.

Mr. MYERS. Mr. President, I now yield 15 minutes to the Senator from Alabama [Mr. SPARKMAN].

Mr. SPARKMAN. Mr. President, ever since the Hoover Commission made its report, I have been giving consideration to what we should do as to the recommendations made by that Commission. I have studied the plans and the recommendations of the Hoover Commission. I have studied the recommendations made by the Citizens' Committee. As a result I have decided to vote against the pending resolution and in favor of Reorganization Plan No. 12. I may say that my thought along this line was somewhat fortified when I read in the CONGRESSIONAL RECORD of June 29, 1949, something which has been referred to and quoted previously, but I want to read it again. It is a part of a speech by the very able senior Senator from Ohio [Mr. TAFT]. I read his language, as follows:

> I believe that the amendments which we have suggested are important. Perhaps the most important one is the elimination of the independent general counsel. The difficulty which arose with the independent general counsel was that he took a different view of the jurisdiction of the Board than did the Board itself. He would bring a case which he thought was covered by the act. After a year's litigation the Board would rule that it was not covered by the act. In the last analysis the Board determined the result, but in the meantime there was confusion. There was a difference of opinion. There was difficulty in the separation of powers.
>
> Under the Administrative Procedures Act, which was passed since the passage of the original National Labor Relations Act, the judicial and prosecuting functions are largely separated, although not entirely so. The procedure goes back to the Board. However, we felt that on the whole that separation accomplished the purposes we were trying to accomplish in not having the same people bring the prosecution, try the case, and then judge those who they themselves had indicted. That was one of the strong protests made by the labor unions, and we felt that it was sufficiently justified to go back to the Administrative Procedures Act and rely upon that for a fair treatment by the Board.

Mr. President, exactly what the senior Senator from Ohio was arguing for less than a year ago is what Reorganization Plan No. 12 seeks to provide. Under the influence of the soothing persuasiveness of the distinguished Senator from Ohio, the Senate passed the Taft bill to take the place of the Taft-Hartley Act. One of the provisions of that bill, as I have pointed out in his remarks on the Senate floor, abolished the office of general counsel of the National Labor Relations Board and restored to the Board a large part of the powers and responsibilities which it had before the Taft-Hartley Act was passed.

We have before us today a similar proposal, this time in the form of a reorganization plan submitted by the President under the Reorganization Act of 1949, under which executive and administrative functions of the National Labor Relations Board and of the general counsel relating to the appointment and supervision of personnel, the distribution of business among personnel and administrative units, and use and expenditure of funds would be transferred to the chairman of the Board. Under this plan, all other functions of the general counsel of the Board would be transferred to the Board, and the office of the general counsel would be abolished.

Mr. President, in talking about the office of general counsel and about the disagreements which arose between the general counsel and the National Labor Relations Board, I should like to point out that to my mind the greatest disagreement grew up over something as to which everyone ought to be greatly concerned, and particularly those of my colleagues who come from the South and who believe so strongly in States' rights.

The general counsel insisted upon bringing in the corner drugstore, the filling station, the little bakery, and the little laundry, whereas the Board ruled that those were matters of no great consequence; they were small businesses, local in their nature, and should be left to the States to handle. Time after time the Board refused to act upon or to approve the action which had been taken by the general counsel in relation to those small local businesses. In spite of that, the general counsel would insist on taking action, so that he was carrying on a constant harassment of small businesses all over the country, businesses which the Board continued to say it should not give attention to, that they should be left to the States to handle.

On April 15, 1949, the general counsel brought in a drugstore located, I believe, in Denver, Colo. The case was dismissed, but in spite of that, on October 31, 1949, the general counsel brought in exactly the same corner drugstore, and the Board again dismissed it.

There have been many such cases, Mr. President. In the short time allotted to me I cannot name all the cases, but I should like to mention just a few. I hope Senators will listen to the names of these cases, because even the names themselves indicate the littleness and the local nature of the businesses. Hom-Ond Food Stores. Matter of Sta-Kleen Bakery, Inc., Matter of Fehr Bakery, Co., Purity Creamery Co., Matter of Creamland Dairies. Mr. President, I could go on and on with similar cases. They are small, local businesses, which the general counsel has insisted on bringing in. As a result there has been created needless friction with the National Labor Relations Board.

Mr. President, I ask that there may be inserted in the RECORD at this point, as part of my remarks, a memorandum relating to these particular matters and listing several of the cases, as well as giving quotations relating to each of them.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

DOCUMENTATION OF DISAGREEMENT BETWEEN THE NATIONAL LABOR RELATIONS BOARD AND THE GENERAL COUNSEL, R. N. DENHAM

1. CASES OF DISAGREEMENT BETWEEN NLRB AND GENERAL COUNSEL

Disagreement between the NLRB and the genearl counsel had its major effects on the question of exercising jurisdiction over small businesses. The question arose in both representation (election) cases and unfair labor practice cases. The dispute was particularly marked in unfair labor practice cases because of the petition of the general counsel that among other reasons the Board had no authority under section 3 (d) of the Taft-Hartley Act to refuse to exercise jurisdiction over an unfair labor practice case once the general counsel had determined to issue the complaint. The general counsel's position was based on the language of section 3 (d) to the effect that "He shall have final authority, on behalf of the Board, in respect of the investigation of charges and issuance of complaints [in unfair labor practice cases] * * *."

The disagreement in this area arose over the exercise of jurisdiction over businesses "essentially local in character" (as the NLRB described them) such as drug stores, grocery stores, dairies, bars, and restaurants and other local businesses. The general counsel insisted that the Board should exercise jurisdiction where at least part of the products sold by these businesses, although sold entirely within the State, originated from out of State. The Board, on the other hand, early established a policy of not exercising its jurisdiction in such cases, on the ground it would not effectuate the policies of the act to do so, since the businesses were essentially local in nature.

(a) Representation cases: The Board first established the policy of refusing to exercise jurisdiction over so-called local businesses, in a line of decisions dismissing petitions in representation cases.

Hom-Ond Food Stores (May 13, 1948, 77 NLRB 647).

Matter of Sta-Kleen Bakery, Inc. (July 30, 1948, 78 NLRB 798).

Matter of Fehr Bakery Co. (Sept. 2, 1948, 79 NLRB 440).

Purity Creamery Co. (Sept. 28, 1948, 79 NLRB 1042).

Matter of Creamland Dairies (Nov. 8, 1948).

The Board found these businesses to be "esentially local in character" and therefore decided that it would not "effectuate the statute's policies to assert jurisdiction."

In spite of this established policy the general counsel on November 23, 1948, issued G. C. Field Letter No. 52 (revised) in which he instructed the regional offices to disregard these decisions and to proceed to process such local cases. The field letter stated:

"Where representaton cases involve different parties, but industries similar to those with respect to which the Board, notwithstanding the existence of statutory jurisdiction, may have denied the processes of the act because, 'it would not effectuate the policies of the act,' such cases will be processed at the regional level in regular manner." [See Hearings on S. 249, Committee on Labor and Public Welfare, 81st Cong., 1st sess., pp. 138–141 and 175.]

The Board, in an exchange of memoranda with the general counsel late in 1948 attempted to straighten out this disagreement. This exchange appears in the record of the hearings noted above. But the general counsel continued so to instruct regional office personnel with regard to representation cases until September 1949. (See statement of Paul M. Herzog, Chairman, NLRB, April 6, 1950, Hearings on Reorganization Plan No. 12,

Committee on Expenditures in the Executive Departments, United States Senate, 81st Cong., 2d sess., at p. 11.)

(b) Unfair labor practice cases: The conflict on the issues of jurisdiction still continues in unfair labor practice cases. (See statement of Paul Herzog noted above, at p. 11.)

The Board first asserted its power to refuse to exercise jurisdiction for policy reasons in an unfair-labor practice case in—

A–1 Photo Service Co. (May 13, 1949, 83 N. L. R. B. No. 86, 24 L. R. R. M. 1106). The opinion in this case clearly points out the nature of the disagreement between the Board and the general counsel on this issue:

"The general counsel, on the other hand, contends that once he has issued a complaint in an unfair-labor practice case, the Board members have no authority to decline to assert jurisdiction on policy grounds, if jurisdiction in fact exists. For the reasons given below, we find no merit in this contention.

"Under section 10 of the act, as amended, the Board is empowered to prevent any person from engaging in any unfair-labor practice affecting commerce, but it is not directed to exercise its preventive powers in all such cases. From this, we believe it reasonable to infer, in the absence of any convincing evidence to the contrary, that Congress intended the Board to continue to have discretionary authority to decline to exercise these powers in appropriate cases, as it had under the Wagner Act. The Board can now exercise this discretionary authority only by dismissing a complaint. We have, therefore, dismissed complaints—as we have declined to proceed with representation cases—when, in our opinion, the assertion of jurisdiction would not effectuate the policies of the act (Matter of *Walter J. Mentzer* (23 L. R. R. M. 1570)).

"For the above reasons, we find, contrary to the general counsel's contention, that the Board has discretionary authority to dismiss complaints for policy reasons, even though commerce is affected."

The general counsel, however, has continued to assert his conflicting views and to instruct regional offices accordingly, even so far as to process unfair-labor-practice cases involving the very same employer over whose business operations the Board had earlier, in a representation proceeding, refused to exercise jurisdiction.

Haleston Drug Stores, Inc., et al. (April 15, 1949), a representation case dismissed by the Board (82 N. L. R. B. 1264).

Haleston Drug Stores, Inc. (Oct. 31, 1949), an unfair-labor-practice case dismissed on same jurisdictional grounds over the opposition of the general counsel (25 L. R. R. M. 1040).

See also general counsel's G. C. Field Letter No. 52 (revised) of November 23, 1948:

"The fact that the Board has dismissed a representation case because, in its view, 'it would not effectuate the policies of the act' to process it even though legal jurisdiction exists, will not bar the acceptance and processing of a meritorious [unfair-labor practice] charge involving the same parties or any of them." (Hearing on S. 249, Senate Committee on Labor and Public Welfare, 81st Cong., 1st sess., p. 175.)

The general counsel is now refusing to represent the Board's point of view in the courts in two of these cases, the A–1 Photo Service case and Haleston Drug Stores, Inc., which are pending for review in the court of appeals at Denver. In the statement Mr. Denham said:

"The general counsel, however, cannot be expected to urge the courts to approve the Board's incursion into his own area of statutory responsibility or to accept the Board's delegation to him of this type of assignment."

(See public statement of General Counsel Denham, issued the first week in March 1950, announcing his refusal to submit to the Board's restriction of his authority in a revision of a 1947 memorandum delegating certain powers to the general counsel, 25 L. R. B. 242, March 6, 1950).

The general counsel also informed the Board officially that he might wish to state his contrary views to the court in the Haleston case by a brief amicus in opposition to the Board. (See exchange of memoranda between the Board members and the general counsel, hearings, House Committee on Expenditures, March 23, 1950, p. 123).

2. GENERAL COUNSEL'S STATEMENT REFUSING TO SUBMIT TO NLRB'S RESTRICTION ON HIS AUTHORITY

The Board on February 28, 1950, issued a revision of a 1947 memorandum delegating certain powers to the general counsel (13 F. R. 654). In the revision the Board—

(a) Instructed the general counsel that he must obtain advance Board approval before he may appoint, transfer, discipline, or discharge any regional or subregional director.

(b) Directed the general counsel to act "in full accordance with the directions of the Board" when he is representing the Board in the lower courts. Previously the general counsel was merely required to act "upon direction" of the Board in these matters.

(c) Directed the general counsel when processing petitions for collective-bargaining elections, to do so in accordance "with the decisions and instructions of the Board."

Within a few days General Counsel Denham issued a public statement, took exception to these changes and announced his "refusal to submit" to these instructions. (See statement noted above.) In addition to refusing to defend in the courts the Board's position on jurisdiction (see discussion above on A–1 Photo case), the general counsel in his statement said that the Board's instructions on the employment of regional directors violated the "intent of Congress." He interpreted the conference report as indicating that it was the intent of Congress to place final authority over employment of a regional director in the general counsel.

3. VESTING OF "HOUSEKEEPING" FUNCTIONS IN NLRB CHAIRMAN

Reorganization Plan No. 12 provides for the transfer from the Board and the general counsel to the Chairman of "the executive and administrative functions of the Board and of the general counsel, including their functions with respect to (1) the appointment and supervision of personnel, (2) the distribution of business among personnel and among administrative units, and (3) the use and expenditure of funds." All other functions of the general counsel are transferred to the full Board, and the appointment by the Chairman of the heads of major administrative units under the Board shall be subject to approval of the Board.

Paul M. Herzog, chairman of the Board, stated to the Senate Committee on Expenditures during the hearings on plan No. 12, that these functions transferred to the chairman are the purely administrative and housekeeping ones assigned to the chairman of the other six commissions covered by Reorganization Plans No. 6 through 11, and that all investigatory and regulatory functions are vested in the full Board.

This is in line with the Hoover Commission recommendation with regard to regulatory commissions in general that the chairman be made expressly responsible for administration. The task force report on regulatory commissions stated that this recommendation is designed to center the administration in one member, responsible to the Commission or Board, to relieve the other member of these duties, and "to assure effective supervision essential for expedious handling of cases and orderly dispatch of business." (See p. 32).

This is what Reorganization Plan No. 12 seeks to accomplish. It abolishes the present split in administration between the Board and the general counsel's office which does not make for efficient administration and which leads to a diffusion of responsibility. Efficient administration is not possible without a single and direct line of authority, whether in a regulatory commission or an executive department. The Taft-Hartley Act split the administration of the act between the Board and the general counsel. Shortly after passage of the act, the Board felt it necessary for reasons of economy and sound management to delegate to the general counsel complete responsibility for the hire and discharge of all personnel in the regional offices. This resulted in the loss by the regional employees of their identity as agents of the Board, as illustrated in the jurisdictional dispute discussed above, and in the disagreements on policy issues.

The administrative functions are placed in the chairman, rather than the full Board in order to prevent the absorption of all the commissioners in administrative details at the expense of the substantive work, the chairman should be specifically designated as the person responsible for administration within the Commission.

DUTIES

In practice his duties in this respect should include:

1. Supervision of the various bureaus and divisions from the administrative point of view, such as their workload, backlog, progress, and programs.

2. Direction of the administrative divisions of the Commission—those dealing with the budget, personnel, management analysis, and office and miscellaneous services.

3. Analysis of the administration and procedures of the Commission for proposing changes to improve administrative efficiency and to provide more systematic supervision.

RELATION TO COMMISSION

On routine supervision and appointments, the chairman should merely report periodically to the Commission. But the chairman's primary responsibility for administration should not supplant the ultimate authority of the entire Commission on matters which are of major significance to the agency. For example, the Commission should approve apointments of bureau or division chiefs, or major reorganizations of the staff. On such matters, the chairman should have the responsibility for taking the initiative in spotting and analyzing the problems, developing data, and submitting proposals to the Commission. (See Task Force Report on Regulatory Commissions, pp. 46, 47.)

Mr. SPARKMAN. Mr. President, I wish to take a few minutes more to discuss the proposal in light of the Hoover Commission report. While I was at home last December, I attended a dinner given by the State chamber of commerce in Birmingham. They had had an all-day business session which was closed with a dinner that evening. My friend and distinguished colleague the junior Senator from Florida [Mr. HOLLAND] was the speaker on that occasion. During the dinner it was announced they had one

item of business to attend to. They had been in business session all day. That item of business, Mr. President, was a report of the resolutions committee. The chairan of the resolutions committee rose up and said:

We boast of the fact that we are presenting one one resolution, and this is it: "We wholeheartedly endorse and recommend that the Congress of the United States approve the recommendations of the Hoover Commission report."

That is the only resolution which was adopted during that day's business session of the State-wide Chamber of Commerce of the State of Alabama. I looked over that group and the thought that went through my mind was: How easy it is to recommend a general, overall program. I wondered how many of those people would communicate with me and protest against some particular plan submitted under the Hoover Commission report.

Mr. JOHNSTON of South Carolina. Mr. President——

Mr. SPARKMAN. I yield to the distinguished Senator from South Carolina.

Mr. JOHNSTON of South Carolina. I should like to ask the Senator from Alabama if he knows that even Mr. Denham was against the division of authority when it was put into effect.

Mr. SPARKMAN. I do not know that he was against it when it was put into effect, but I do know that in a speech Mr. Denham said it had created an impossible situation. I do not remember his exact words, but, in substance, they were to that effect.

Mr. JOHNSTON of South Carolina. I should like to ask the Senator if he recalls having read a letter which Mr. Denham wrote to the Senator from Missouri [Mr. DONNELL], dated February 21, 1947. The full text of the letter is printed in the report of the hearings before the Senate Committee on Labor and Public Welfare on Senate bill 249, at page 1130. I should like to read the following excerpt from Mr. Denham's letter:

The provision for dividing the functions of the Board between the Department of Justice and the present Board savors of the wisdom of Solomon in dividing the child. It simply will not work. The administration of labor relations at the source involves much more than the trial and determination of adjudications. More than 90 percent of the matters which might develop into litigations are disposed of administratively in the regional offices. These dispositions must be coordinated to the same general policy that influences the final determination of the litigated cases. This proposed division would only create additional confusion with policy emanating from two independent and uncoordinated sources. If this is to be done, however, then the judicial side of the Board should be set up as a regular labor court with all the powers of the Circuit Court of Appeals and with the present position of Trial Examiner converted into that of judge with all the powers of a district judge. I would wholly approve of such a change, for it would concentrate the decisions in one body and do away with the diversity of opinions now coming from 10 circuit courts of appeal, which makes their decisions almost valueless as precedents until they have been passed upon and reconciled by the Supreme Court.

Does the Senator know that such a letter is in the record?

Mr. SPARKMAN. I had not seen the letter, and I appreciate the Senator's calling it to my attention. I know that since then Mr. Denham has made speeches in which he has said the division presented an impossible problem.

Mr. President, if we are to do anything with reference to streamlining the Government and getting a more efficient operation of the Government, and making it possible to effectuate some of the savings which the Hoover Commission said we could make, we must begin to put into effect some reorganization plans. I do not intend by that statement to announce that I shall support every single plan, but I do say that I shall resolve any doubts in favor of these reorganization plans. That is exactly what I am doing with plan No. 12.

The citizens committee has pointed out that a great part of this plan as recommended does conform to the Hoover Commission's report. They say it does not entirely do so, but a great part of it does. Mr. President, I have studied it. I have studied the various recommendations. I have come to the conclusion that it does conform materially with the Hoover Commission's report. They say it ought to be approved. It is for those reasons, Mr. President, that I shall vote against the pending resolution.

Mr. President, there are other issues involved in Reorganization Plan No. 12 of 1950. One of the issues we have to decide is whether we are going to single out the National Labor Relations Board as a board requiring wholly special treatment. Alone among the regulatory boards and commissions, the National Labor Relations Board was singled out in 1947 for a statutory separation of prosecuting and judicial functions. Alone among the regulatory boards and commissions, the National Labor Relations Board was burdened with a heavy superstructure of dual personnel, dual policy making, and dual administration. Only the good sense of the National Labor Relations Board, which has striven to reduce the confusion resulting from this action to the minimum, has prevented wholesale disruption of the operations of the National Labor Relations Board since the enactment of the Taft-Hartley Act in 1947.

The National Labor Relations Board has pointed out to the Committee on Expenditures in the Executive Departments, which held hearings on the resolution of the senior Senator from Ohio to disapprove Reorganization Plan No. 12, that—

The splitting of responsibility has caused friction within the agency, and confusion among management and labor unions, as to the coverage of the Labor Management Relations Act.

It has projected uncertainty and litigation.

It has been characterized by simultaneous policy determinations which were contrary to each other.

It has impeded enforcement of the public policy in the courts.

Continuation, or accentuation, of the split in authority will constitute a continuing threat to effective enforcement of the law, no matter what the law's substantive provisions may be.

These unanimous conclusions are based on five men's experience as administrators under an experiment of divided authority and separated functions.

The members of the National Labor Relations Board are by no means always unanimous in their decisions. The records of the Board are replete with instances of sharp differences of opinion over issues raised by the complex and intricate provisions of the Taft-Hartley Act. On the problem of administration raised by the existence of the statutory office of general counsel, however, all five members of the Board, whatever their views of the scope and meaning of the act's provisions may be, are in agreement that the existence of this office hampers effective administration and results in confusion and uncertainty for all persons, employers and unions, who are affected by the provisions of the Taft-Hartley Act.

There is one final point I would like to make, Mr. President. We should not be misled into thinking that the issue before us is whether we will have separation of prosecuting and judicial functions in the National Labor Relations Board, or no separation of prosecuting and judicial functions. While the Administrative Procedure Act exempted a number of our regulatory boards and commissions from the effect of its provisions, it did not exempt the National Labor Relations Board. Under the provisions of that act, the Congress has provided sound procedures to assure proper separation of prosecuting and judicial functions within an agency. The real issue, Mr. President, is not, I repeat, whether there should be separation of prosecuting and judicial functions in the operations of the National Labor Relations Board—and the Administrative Procedure Act assures us that there will be—but rather whether there will be in the structure of the National Labor Relations Board a statutory office of general counsel, with authority independent of that of the Board itself, which can frustrate and hamper the effectuation of our national labor relations policies and activities.

Because I am convinced, Mr. President, that the existence of the general counsel's office as a statutory agency, independent of that of the Board, does hamper sound effectuation of the policies written into our Federal labor relations law, I feel that Reorganization Plan No. 12 of 1950 is a sound plan and should receive the approval of the Senate. If we believe that the recommendations of the Hoover Commission are sound, we must agree with many provisions of this plan. If we feel that it is important to provide for constructive and harmonious carrying out of the policies of our principal national labor relations statute, we must support the abolition of the general counsel's office—the existence of which clearly makes the realization of this objective impossible.

It is my firm belief, Mr. President, that Reorganization Plan No. 12 of 1950 should be approved and that Senate

Resolution 248, the 1950 embodiment of the views of the senior Senator from Ohio on this matter, should be rejected.

Mr. TAFT. Mr. President, may I ask whether any other Senator intends to speak in opposition to the resolution? I know that no one except myself intends to speak in favor of the resolution.

Mr. LUCAS. I understand that all Senators who are opposed to the resolution offered by the Senator from Ohio have spoken with the exception of the Senator from Illinois.

Mr. TAFT. Mr. President, I yield myself 25 minutes. I may speak for a few minutes after the majority leader has spoken in opposition if I believe that something he said requires a reply.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. WHERRY. Does the Senator wish to have a quorum call? I should like to suggest the absence of a quorum.

Mr. TAFT. I yield for that purpose.

Mr. WHERRY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Hayden	Maybank
Anderson	Hendrickson	Millikin
Benton	Hickenlooper	Mundt
Brewster	Hill	Myers
Bricker	Hoey	Neely
Bridges	Holland	O'Conor
Butler	Hunt	Robertson
Byrd	Ives	Saltonstall
Cain	Jenner	Schoeppel
Capehart	Johnson, Colo.	Smith, Maine
Chapman	Johnson, Tex.	Smith, N. J.
Chavez	Johnston, S. C.	Sparkman
Connally	Kefauver	Stennis
Cordon	Kem	Taft
Darby	Kerr	Taylor
Donnell	Knowland	Thomas, Okla.
Douglas	Langer	Thomas, Utah
Dworshak	Leahy	Thye
Eastland	Lehman	Tobey
Ecton	Lodge	Tydings
Ellender	Long	Watkins
Ferguson	Lucas	Wherry
Flanders	McCarthy	Wiley
Fulbright	McClellan	Williams
George	McFarland	Withers
Gillette	McKellar	Young
Green	Malone	
Gurney	Martin	

The PRESIDING OFFICER. A quorum is present.

The Senator from Ohio [Mr. TAFT] is recognized for 25 minutes.

Mr. TAFT. Mr. President, Reorganization Plan No. 12 proposes to abolish the office of the general counsel of the National Labor Relations Board, and to transfer—not to the Board, but to the Chairman of the Board—all the executive and administrative functions of the Board and of the general counsel. The general counsel, so far as I can see, never has had anything except executive and administrative functions. Obviously the plan would transfer all those to the Chairman of the Board. It would concentrate in the Chairman of the Board almost all the powers of the Board except judicial powers.

The Office of the general counsel—which is the prosecuting and administrative end of the National Labor Relations Board—today has about 1,200 employees. The Board as a judicial body has about 200 employees althogether. Under Reorganization Plan No. 12 all the 1,200 employees, and their appointment, which is now under the Board, according to the original law, would be transferred to the Chairman of the Board.

The suggestion has been made that the general counsel is an all-powerful dictator, with all sorts of power. However, Mr. President, Reorganization Plan No. 12, if put into effect, will give the Chairman of the National Labor Relations Board twice the power the general counsel has ever had.

I wish to point out that the plan now submitted to Congress is not the original plan. The original plan was for a Board; and under the Board there was to be a general counsel with a line of prosecuting duties; and there was to be an office of examiners, and so forth, to handle the judicial duties. The duties in that connection were fairly well distributed.

However, under the plan now submitted, the prosecuting and judicial functions, by being vested in one man on the Board, would be concentrated, it seems to me, far more than even in the set-up in the National Labor Relations Board which was so widely criticized, which was changed by the Taft-Hartley law, and was twice attempted to be changed before that time by the House of Representatives.

There is some claim of justification for the transferral of these powers back to the Board; but I cannot see any justification for doing that. We are told that the performance of these duties is a policy-making function, but certainly the fact that it is a policy-making function does not mean that it is not an executive function. All the functions and powers of the President are executive functions and powers, and they include a number of policy-making functions and powers.

So it seems to me that probably this plan is far worse than the original plan which was changed by the Taft-Hartley law.

In the first place, Mr. President, the plan now submitted does not conform to the Hoover Commission's recommendations. I have in my hand Mr. Hoover's own telegram, addressed to me, as it appears on page 15 of the printed hearings. It reads as follows:

The Honorable ROBERT A. TAFT,
United States Senate,
Washington, D. C.:

I have your inquiry as to the recommendations of the Commission on Organization of the Executive Branch of the Government as to the counsel of the National Labor Relations Board. So far as I recollect, this subject was never discussed by the Commission. There is no recommendation in the Commission's reports to Congress.

HERBERT HOOVER.

Mr. President, the distinguished Senator from Arkansas [Mr. MCCLELLAN] who was a member of the Hoover Commission, states that he thinks the question did once come up before the Commission, but that when it came up, it was at once agreed that it was not within the general functions of the Commission, that it was not merely an improvement of administration, but was a substantial change of the substance of a law which recently had been enacted by Congress, and that therefore the Commission should not make any recommendation regarding it.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. TAFT. I yield to the Senator from Vermont, who was also a member of that Commission.

Mr. AIKEN. Mr. President, I would corroborate the statement of the Senator from Arkansas to the effect that this question did come up for consideration before the Hoover Commission at one time. It was decided that it was a matter for the Congress to determine. There is nothing in the Hoover Commission recommendations to the effect that the move now proposed by the President to be taken should be taken.

On the other hand, there is nothing in the recommendations to prohibit such a move, so far as I know.

However, the question did come up, and the Hoover Commission felt it was outside its own jurisdiction.

Mr. TAFT. I thank the Senator from Vermont.

Mr. President, it is suggested that the task force in some way recommended this proposal. That is not true in any sense, Mr. President.

A reading of the task force report shows that while the task force criticized the present setup—and I am quite free in admitting that it is subject to criticism, for reasons which I shall mention—yet the task force did not recommend at any point the abolition of the general counsel or his subordination to the Board or to the chairman of the Board.

In fact, what the task force said, after criticizing the present setup, was:

> Our staff recommends the creation, by Executive order, of a council of labor under the chairmanship of the Secretary of Labor, and including the general counsel and other Federal officials concerned with labor problems.

Their recommendations therefore contained the recommendation that the general counsel should continue as an officer sitting in on the determination of major policy matters.

Mr. LUCAS. Mr. President, will the Senator yield at this point?

Mr. TAFT. I yield.

Mr. LUCAS. In that recommendation they did not say that the general counsel should remain independent, as he is at the present time, and as the pending resolution seeks to continue him; did they?

Mr. TAFT. They did not recommend plan No. 12, nor did they recommend at any point the abolition of the general counsel, as plan No. 12 would do.

In fact, by recommending that he be a member of the proposed new labor council, they deliberately took exactly the opposite position from that taken in plan No. 12, which recommends the abolition of the general counsel.

Mr. LUCAS. But is it not a fact that the task-force report says that is a complete departure from administrative practices and that the office of the general counsel should not be left in charge both of the Board and of the executive functions or agencies of the Board?

Mr. TAFT. The task-force report states:

> Others have strongly urged that the office should again be placed under the Board. To this the objection is made that the prosecuting functions should be separate from the hearings of complaints. But as has already been indicated, only in part are his present duties genuinely prosecution; some parts are administrative and parts are a species of rule or policy making. It may be that administrative and policy-making functions could be subordinated more clearly to the Board's control while still maintaining an adequate separation of the truly prosecuting activities.

In other words, the task force itself, so far as it takes any definite position, recommends the continuation of the general counsel and recommends that his prosecuting functions at least be independent of the Board.

So there is nothing in either the Hoover Commission's report or the report of the task force to support the proposal set forth in plan No. 12 that all the general counsel's powers be transferred to the Chairman of the National Labor Relations Board and that the office of the general counsel be abolished.

Mr. President, there is another reason why it seems to me the action proposed by plan No. 12 should not be taken by this particular method under the Reorganization Act. The Reorganization Act was intended to reorganize the executive departments. It was not intended as a means of changing major policies established by the Congress.

When Congress determined a definite policy—as Congress did in 1947—certainly Congress was not granting to the President, by means of this rather curious semilegislative, semiexecutive procedure, the right to reverse major-policy decisions made by the Congress in recent years. Certainly that is not the purpose of the Reorganization Act.

The attempt to repeal a major policy established by the Congress is not properly within the scope of a reorganization plan.

If the President finds that by this means he can repeal laws which Congress has enacted, we shall find all kinds of reorganization plans being submitted to us, because it would be far easier for the President to proceed by this method under which his proposals can only be vetoed by the affirmative votes of 49 Members of the Senate or 218 Members of the House of Representatives, rather than to ask Congress to pass laws in the usual way.

So I say this is an improper use of the reorganization plans, and we should not approve any such procedure.

Mr. President, to my mind the plan itself is completely unsound. We have had a long history of confusion as between the prosecuting and the judicial functions. It seems to me very clear that where there is anything in the nature of a serious question of prosecution, those functions should be separated. The same man, the same board, should not be the prosecutor and then the examiner and then the jury, in effect, and then the judge who will determine questions of fact and questions of law.

The man who finally decides, the man who passes on the question of whether a person should or should not be prosecuted and the question of whether a person has violated a law, whether he has engaged in an unfair labor practice, naturally looks into the question and half way makes up his own mind. As a rule, he would not recommend the prosecution unless he thought the prosecution was justified. Certainly it is wrong, then, that the case should come before him as a judge, because when it does come before him as a judge, his mind is already made up, and he is disposed to vote to support his original administrative decision.

On that principle, it was felt for years that the National Labor Relations Board was a peculiar example of unfair and unjudicial procedure.

I sat in the hearings in the Senate Office Building in 1939 and heard William Green and William Padway denounce the procedures of the National Labor Relations Board before 1939 as the most outrageous perversions of justice this country had ever seen, because the Board decided first what it wanted to do, and then brought the prosecution, and then assumed the judicial function. Since usually there were questions of fact, it was very difficult indeed to get a court ever to reverse their decision.

Mr. Green said the Board set out deliberately to put a CIO union in every plant in the United States, and in every case where there had been a question between the CIO and the AFL, he said the decision was always in favor of the CIO. Mr. Roovevelt let the terms of the members of the Board expire, and he appointed members who were more satisfactory to the AFL. In time the complaint of the AFL was cured. But the procedure was the same, and in most cases, the new Board was just as unfair to the employer on the other side, as had been the original Board. So that when the question again arose, we decided the functions ought to be separated, and we tried to do so.

I do not think the present separation between the general counsel and the Board is entirely satisfactory. There are two difficulties. The law is not very clear as to exactly how their functions are divided. In one respect, a serious complaint was made that the general counsel would bring a case and decide that it was properly within the jurisdiction of the Board, and then a year later the Board would decide it was not within its jurisdiction. The general counsel was disposed to press the idea of interstate commerce further than I would press it, and, on the other hand, the Board took the position, which would seem to me equally wrong, that only large cases should be considered and not small cases. In any event, a difference developed, and the general counsel might bring a case, and a year later the Board might throw it out. In my opinion, that situation can be dealt with.

I have introduced a bill which is now pending in the Committee on Labor and Public Welfare, to deal with those two faults. The bill makes it perfectly clear who appoints the personnel, who has the function of deciding whether to bring a prosecution or not, and, on the other hand, deciding that if the prosecution is brought and the Chairman thinks there is no jurisdiction, it will be possible to obtain immediate ruling from the Board, so that if the Board decides it is not a proper case, the case can be dismissed at once without going through the long procedure of an actual trial. I think that bill should be considered by the Committee on Labor and Public Welfare and worked out on the basis of the evidence, to accord with the basic theory of the Taft-Hartley law, that there should be a separation of prosecuting and judicial functions.

Mr. LUCAS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Illinois?

Mr. TAFT. I yield.

Mr. LUCAS. Does the Senator from Ohio contend that the investigatory and regulatory functions are vested in the Chairman of the Board, or in the Board itself?

Mr. TAFT. I would think that the investigatory functions, from the point of view of determining whether a case should be brought and prosecuted are vested in the Chairman. It seems to me very clear that that is an executive or administrative function—probably an executive function. I have no question that it is vested in the Chairman. The Chairman testifies he thinks it is not. I think he is simply wrong. He would like to have the plan adopted of course. He is in a somewhat prejudiced position, and naturally he is interested. I think it is perfectly clear what is an administrative and what is an executive function. So far as regulatory functions are concerned the general counsel has no regulatory rights. So far as I know, he cannot issue a regulation, today. I do not know what the Senator means by a regulatory function.

Mr. LUCAS. I am referring primarily to the investigatory power, which is the principal thing the Senators are talking about, because, involved in that, is the prosecution. The Senator from Ohio contends one thing with respect to where that power is lodged, yet the chairman of the Board, who has to administer the act, definitely says in the hearings before the committee that it is absolutely lodged in the Board itself, not in the chairman.

Mr. TAFT. Let me read the words:

> There are hereby transferred from the National Labor Relations Board, * * * and from the general counsel of the Board, to the chairman of the Board, * * * the executive and administrative functions of the Board and of the general counsel, including their functions with respect to (1) the appointment and supervision of personnel, (2) the distribution of business among personnel and among administrative units, and (3) the use and expenditure of funds.

The Chairman of the Board appoints every one of the 1,200 people engaged in prosecution, expressly. It seems to me, certainly, if he does not have the right

to decide how they shall act, he can at least tell them how they should act, because he has the appointment and supervision of those men. Under the original plan, they were appointed by the Board; at least one man did not have the appointing power. If we return this to the chairman of the Board, it seems to me that whoever administers the prosecuting function is going to consult the chairman about every major question of policy. He is bound to. He is not going to do something to get himself in wrong with the man who appointed him and the man who can remove him from office. In the old days, toward the end, the Board did not interfere much with prosecuting, because, after all, it is pretty hard for 5 men to pass on cases of that kind. But when it is transferred to the chairman of the Board, the chairman of the Board it seems clear to me is going to be the one who actually, in practice, decides whether a case shall be brought, and who then sits as head of the Board which finally decides the case. So the plan it seems to me is very much worse than the original law.

The President and others have criticized me because, last year, in a long substitute bill which made some 20 changes in the Taft-Hartley law, I agreed to return these powers to the Board itself. I have tried to point out that I think it is very much worse to return them to the Chairman of the Board than to the Board. I said on the floor of the Senate at that time that I did that with great doubt. I was endeavoring to get general agreement among all those who were in favor of a substitute bill, instead of the repeal of the Taft-Hartley law, and I agreed somewhat further than I thought was desirable. I know also that the House would go into the question, and that they would study very carefully the problem of how, in particular, we should meet defects which had been shown in the present law. And so I have introduced a bill which is now pending, as I say, before the Committee on Labor and Public Welfare, and which attempts to meet those particular difficulties. I am rather amused that the President refers to the fact that the Senate passed the bill amending the Taft-Hartley Act, because as soon as it got over to the House he sat on it, and all of his instructions were to sit on it. The labor people sat on it, and they killed the bill entirely. If they are willing to take the whole bill, with all the other things in it, I think I might be willing even to make the compromise I made last year. But this plan goes even a good deal further than that compromise. This plan, it seems to me, sets up a real labor dictator, a man in whose single, individual decision is to be vested finally in the determination of the labor policy between employer and employee in the United States.

Mr. DOUGLAS rose.

Mr. TAFT. I yield to the Senator from Illinois.

Mr. DOUGLAS. I should like to ask the very able senior Senator from Ohio whether it is not true that, while the Hoover Commission made no particular recommendation concerning the distribution of powers inside the National Labor Relations Board, in the case of other regulatory bodies, such as the Federal Trade Commission, the Federal Power Commission, and so forth, they did advocate a general distribution of powers almost identical with the changes recommended for the National Labor Relations Board by plan No. 12, namely, to transfer the appointive and administrative work from the Commission as a whole to the Chairman; and second, to put the counsel under the Chairman. As a matter of fact, I think that condition already exists in virtually all the regulatory commissions, and we do not propose to disturb it. I should like to ask the very able Senator whether my statement is not correct.

Mr. TAFT. The only recommendation is that all administrative responsibility be vested in the chairman of the Commission. I think, as I read the report of the task force, that what they meant was a kind of housekeeping function. But plan No. 12 goes further. It provides that all executive functions and the administrative functions shall be transferred.

Mr. DOUGLAS. What is the difference between executive and administrative duties?

Mr. TAFT. I think "executive" is a broader term. It covers everything the President does. He is the Executive of the United States. All his powers are executive powers. It is a broader term than "administrative." The latter word relates to the carrying out of details proposed by others.

Mr. President, I doubt the wisdom of the whole plan. I think I shall vote for most of the other plans, but I do question the wisdom of this one, unless it is confined to housekeeping powers, namely, to the business of keeping accounts and operating the routine daily business of the Commission. I would agree to that; but when the plans go further and try to make the Chairman of the Commission the boss of the whole show, taking orders from the President who appoints him, and then directing or trying to direct the action of the Commission as an executive policy, I think they go too far, if that is what they do, and I am afraid that is what they do.

Mr. DOUGLAS. Mr. President, will the Senator yield further?

Mr. TAFT. I yield.

Mr. DOUGLAS. I am very glad the able and distinguished Senator from Ohio has made that statement, because I think it is the position to which he is logically going to be driven. The proposals with reference to the National Labor Relations Board, in Reorganization Plan No. 12, do not differ, so far as I can see, from the plans dealing with the Federal Power Commission, the Securities and Exchange Commission, the new Maritime Commission, and so forth. So, if the Senator from Ohio rejects this principle in the case of the National Labor Relations Board, he will be driven, as a logical and consistent man, to oppose all the Hoover reorganization plans for independent commissions.

Mr. TAFT. Mr. President, I want to say this as to the general question of separating judicial and prosecuting functions: It is far more necessary to separate them in the case of the Labor Board than it is in the case of any other board. The truth is that the Government commissions are all very different; their functions are different; their actions are different; they deal with different questions. In the labor field the Board deals with a very touchy subject in which there is intense feeling, in which there is always a controversy on one side or the other. It is peculiarly necessary that the Government be a judicial arbiter between labor and management. The Labor Board should be so set up that no one can doubt its acting in a judicial sense, that it is not deliberately favoring labor, as a matter of policy, as was the case under the Wagner Act, and that it does not favor management. So, the reasons for keeping the functions separate in the case of the National Labor Relations Board are far greater than in the case of any of the other regulatory commissions of which I know. Its function is not so much the trial of cases; it does not depend so much on a lot of facts disputed vigorously on both sides; it depends rather on an administrative study of the entire problem. In this case I would say it is necessary to keep the functions separate.

The whole purpose of the Taft-Hartley law is to put the Government in a position in which it is fair as between labor and management, in which it tries to hold the scales even, so that the parties, when they meet, can feel that they can deal on a fair and equal basis across the bargaining table.

Mr. President, that brings me to my last point, and that is that it seems to me, looking at the present position, that it is to a large extent part of a political policy. It seems to me perfectly clear that the President is determined, if he can, first, of course, to repeal the Taft-Hartley law; if that is not done, then to take such action as to nullify many of its provisions.

The PRESIDING OFFICER. The time of the Senator from Ohio has expired.

Mr. TAFT. I yield myself 10 more minutes, Mr. President.

What struck me very clearly is that the President seems to have entirely missed the point of having an impartial Board. In connection with the recent appointment to the National Labor Relations Board, Mr. Gordon Gray, who had been appointed by the President 3 years ago, came up for reappointment, his term having expired. It was said that he was favorable to management. He sometimes, I think, perhaps more than did other members of the Board, voted on the side of management or voted more against labor. I could not find that his differences were anything more than anyone might have who deals with rather complicated problems arising under the law. As his term approached its end the press reported a determined labor opposition to his reappointment. He was not reappointed. The position remained unfilled for several months while the President sought an appointee who would be acceptable both to the CIO and to the A. F. of L. The White House

announced that the vacancy would not be filled until after consultation with labor organizations. Significantly, there was no mention of consulting with management organizations.

The President apparently feels that it is a Board which is supposed to crusade on the side of labor. I cannot help thinking that this particular plan is a part of that general program. Mr. Denham is more friendly to management, apparently, than are the Board's decisions. I do not find any prejudice shown in what he has done. I do not always agree with him. I think some of his opinions about jurisdiction are incorrect, but I cannot see that he has favored labor or management in any of the decisions he has made. But he is regarded by labor as being not favorable enough to labor, or as being antilabor.

I cannot help thinking, Mr. President, that the main purpose of the plan is to follow out the general program of the administration to make the National Labor Relations Board a labor agency and to destroy the basic principle of the Taft-Hartley law, which is to have an impartial board deciding cases on the basis of justice and holding even the scales between the contesting parties.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. TAFT. I yield to the Senator from Vermont.

Mr. AIKEN. I should like to ask the Senator from Ohio, in regard to the appointment of Mr. Styles to the Labor Board as the successor of Mr. Gray, whether it is a fact that Mr. Styles was unanimously approved by the members of the Committee on Labor and Public Welfare.

Mr. TAFT. I have no criticism to make of Mr. Styles. I only know that before he was appointed he had to be approved by the American Federation of Labor and the CIO. I know he was himself a union member. Personally, I have no objection. He may turn out to be the most impartial member the Board ever had. I only suggest that the policy of the administration in refusing to reappoint Mr. Gray and seeking labor endorsement for another appointee shows a determination to nullify the spirit and the provisions of the Taft-Hartley law.

Mr. LEHMAN. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. LEHMAN. The junior Senator from New York understood the Senator from Ohio to say, a few minutes ago, that if there were a transfer of functions to the Board rather than to the Chairman of the Board, he would not have any serious objection.

Section 1 of the act recites:

> There are hereby transferred * * * to the Chairman of the Board * * * the executive and administrative functions of the Board and of the general counsel, including their functions with respect to (1) the appointment and supervision of personnel, (2) the distribution of business among personnel and among administrative units, (3) the use and expenditure of funds.

Those are the usual duties which are assigned to the chairman of a board of this character, and certainly they are functions recommended by the Hoover Commission.

Mr. TAFT. I have already dealt with that whole question. I would rather not deal with it over again.

Mr. LEHMAN. Yes, I know that.

Section 3 pertains to the matter I brought out in the beginning of my remarks. I read:

> Transfer of functions to Board: All functions of the general counsel of the Board not transferred by the provisions of section 1 of this reorganization plan are hereby transferred to the Board.

Mr. TAFT. I cannot think of any functions exercised by the general counsel today which are not executive or administrative functions. So I should say that they are all transferred to the Chairman of the Board under the exact provisions of the plan.

Mr. LEHMAN. Virtually every function of a board, save those of a judicial character, is executive in nature. I know of very few exceptions, if any.

Mr. TAFT. They are either executive or judicial. However, the Board is primarily a judicial body, and most of its functions are judicial. I might add one other thing, Mr. President, from the report of the task force, which has not been referred to. The report says:

> The chief bottleneck is the Board, rather than the general counsel or any of his operational divisions.

So that it seems perfectly foolish to transfer an additional workload on the Board, which is already the bottleneck in the whole set-up.

Mr. IVES. Mr. President, will the Senator yield?

Mr. TAFT. I yield to the Senator from New York.

Mr. IVES. With respect to the work load, the Senator from New York would like to inquire of the able Senator from Ohio if he did not note, in the event that he has read the testimony taken at the hearings, the testimony with respect to the duties, functions, and activities of the Board? The Chairman of the Board indicated at that time that the so-called housekeeping functions which have been referred to were the ones which had always taken up a great share of the time of the Board, and that under an arrangement whereby such functions would be left to the Chairman such a condition would not obtain. Furthermore, far from causing an increase in the amount of work of the Board, such an arrangement would actually reduce the amount of work of the Board as a whole.

Mr. TAFT. Obviously it would reduce the amount of work of the other members of the Board, but it would probably triple or quadruple the work of the Chairman of the Board. He would have the job of appointing 1,200 personnel throughout the entire United States. He would have the job of supervising and bossing them. I do not see how anyone would be able to perform all the duties which would be put on the Chairman of the Board by this reorganization plan. More than half the duties would be executed by him, and the remainder by the whole Board.

Mr. IVES. Mr. President, will the Senator yield?

Mr. TAFT. I yield to the Senator from New York.

Mr. IVES. Did not the Senator note also that the Chairman of the Board at the same time pointed out that he would be perfectly willing to undertake the additional functions; that although the performance of the extra functions might take some extra time, he would be perfectly agreeable to assuming those extra functions.

Mr. TAFT. Mr. President, I have never seen any man who, when a legislative body decided to confer upon him arbitrary or dictatorial powers, was not willing to assume them. Of course, he is willing to undertake them. Oh, he thinks he is going to execute them mildly and justly, and act as a benevolent dictator would act under the circumstances. However, I have never yet known of a man who has refused such powers on the ground that it would make him too powerful. I have no doubt whatever that the chairman is in favor of plan No. 12.

Mr. IVES. Mr. President, will the Senator yield further?

Mr. TAFT. I yield to the Senator from New York.

Mr. IVES. The Senator from New York would like to remind the able Senator from Ohio that, regardless of his own implication as to the purpose the chairman may have had in making the statement, the fact remains that the chairman did not imply that purpose in his remarks when he commented upon the proposal. His statement referred exclusively to the actual activities which would be assigned to him and to his ability to perform the functions required of him in handling those activities.

Mr. TAFT. Mr. President, I am about to conclude my remarks. In addition to the general method by which the President has handled the appointments to the Board, I wish to point out that the Department of Justice also, it seems to me, has in effect sabotaged the act in many respects. The Department of Justice has almost nullified the provision regarding the welfare fund. Its decisions have extended the checkoff provisions to initiation fees and assessments, which I believe was never intended when the act was passed. It has had referred to it 23 cases of persons signing non-Communist affidavits.

The PRESIDING OFFICER. The time of the Senator from Ohio has expired.

Mr. TAFT. I assign myself five more minutes.

The Department considered 23 Communist cases and has not brought a single prosecution. A representative of the Department made the statement to the press recently that the reason why action was not taken was that the affidavit said, "I am not a Communist on this date." Therefore, the Department could not prosecute the man, because they could not prove he was a Communist on that date. That is what all Federal employees prove. I would not be in favor of requiring an affidavit which said "I have never been a member of the Com-

munist Party," because a man may change in good faith. Probably it would be unconstitutional. The Supreme Court recently upheld the constitutionality of the anti-Communist oath. In the past few months every Communist has signed an anti-Communist oath, and the Department has failed to enforce the law, as I think it failed to enforce the law in the coal case.

Mr. President, plan No. 12 is a part of a general plan to nullify the provisions of the Taft-Hartley Act. It is an attempt to nullify it indirectly by a method which I feel was never intended. I feel confident that if this matter is left to Congress we can work out such a statute which would fix in detail the powers of the general counsel and the Board and which will meet the basic principle of the law. The desire of Congress, I am certain, is to have the National Labor Relations Board operate as a judicial body holding evenly the scales of justice between those with whose activities it is concerned.

Mr. LUCAS. Mr. President, I assign myself such time as I shall need.

Mr. President, it is not only interesting but it is amazing that the able Senator from Ohio should close his very able argument on the note that Reorganization Plan No. 12 is nothing more or less than a plan to repeal the Taft-Hartley Act. It is amazing in view of what happened on the floor of the Senate last May. As everyone knows, the Taft substitute, which prevailed on the floor of the Senate by a vote of 45 to 40, as I remember, provided for the abolition of the office of general counsel of the National Labor Relations Board. The reorganization plan submitted by the President of the United States contains a similar provision. It is difficult for me to understand what all this shouting is about in view of the previous firm and strong position which the distinguished Senator from Ohio took only a year ago.

Mr. President, in order to shift from the position which the Senator from Ohio took a year ago, he now construes and interprets Reorganization Plan No. 12 as entirely opposed to the purposes of the bill which was submitted as the Taft substitute in 1949. We have the testimony of the man who is sworn to administer the law, namely, the Chairman of the Board. He cannot do other than administer the act as it is written. The distinguished Senator from Ohio disagrees with what the Chairman of the Board said. Surely what the Chairman of the Board testified to before the committee as to his interpretation of Reorganization Plan No. 12 with respect to his duties, powers, and prerogatives ought to be final.

This is what he said:

> It has become essential at the outset to correct one complete misconception of the plan which appears in recent statements by Senator TAFT, a misconception which he says has influenced his own change of position since 1949.

Of course, the Senator from Ohio had to change since 1949. He had to find some way to get out from under the position he took in May 1949, when 47 or 48 other Senators supported him, in connection with this very important piece of legislation.

I quote further from what the Chairman said:

> He evidently believes that plan 13 vests many prosecutory and policy-making powers in the Chairman of the Board, and ads that he would not "object to the plan so much" if these powers were transferred to the Board as a whole. A reading of the plan itself should allay the Senator's fears, and any which his statement may have generated in others.

Mr. TAFT. Mr. President, will the Senator from Illinois yield?

Mr. LUCAS. I yield to the Senator from Ohio.

Mr. TAFT. The Senator remembers that this is a part of the substitute bill offered in place of a bill to repeal the entire Taft-Hartley law, does he not?

Mr. LUCAS. Of course, I remember that very well, but that does not change one iota the principle which the Senator from Ohio and the Senator from Illinois both have fought for, the abolition of the office of general counsel of the National Labor Relations Board. The Senator from Ohio gave his arguments then as to why we should abolish the office of general counsel. They were cogent arguments; they were plausible arguments; and they do not square with the arguments made by the able Senator from Ohio on the same proposal today.

The Chairman of the Board, Mr. Herzog, proceeded further:

> The only additional functions the plan assigns to the Chairman of the National Labor Relations Board, whether now vested in the general counsel or in the Board members, are the purely administrative and housekeeping ones assigned to the Chairmen of all seven Commissions covered by plans 6 to 13.

Mr. President, I ask in all good faith, why do we here in the Senate make an exception of this particular agency? We are giving the others, seven in number, different treatment than we are giving to the National Labor Relations Board. A sound and plausible argument cannot be made for that type and kind of discrimination.

The Senator from Ohio talks about the delicacy of this matter, he speaks of the emotionalism being engendered in labor-management relations. One of the reasons why we have had so much emotionalism, so much trouble in labor disputes, is because of the arbitrary power which has been lodged in the general counsel for the National Labor Relations Board; and he has said so himself.

I quote further from the Chairman of the Board:

> The very wording of the plan itself makes it clear that all investigatory and regulatory functions will be vested in the Board—

Mark the word, "investigatory." That is the important part; that is where the prosecution lies, in the investigatory part. The prosecuting power does not lie in the Chairman, according to the Chairman himself. I quote:

> The very wording of the plan itself makes it clear that all investigatory and regulatory functions will be vested at this Board—precisely as they will continue to be vested at the other Commissions—not in one man, but in the five men who comprise the entire Board.

I ask how a Senator can discriminate and give the other seven commissions certain powers and duties, and yet deny the National Labor Relations Board the same kind of treatment.

Mr. Herzog said further:

> Section 3 of plan 12 transfers all functions of the general counsel to the full Board, except for those purely executive and administrative functions which are transferred to the Chairman for purposes of convenience and efficiency.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. TAFT. What is a purely executive function? Is not practically every function exercised by every President of the United States and every other officer an executive function?

Mr. LUCAS. The Senator from Ohio has been talking about investigatory power; he has been talking about regulatory power. His contention is that under the reorganization plan all those powers have been lodged in the Chairman of the Board. That is what I deny. I challenge that statement, and I am contending now that the Chairman of the Board, Mr. Herzog, who will administer the Board if Reorganization Plan No. 12 is agreed to, is correct in his interpretation; and after he has gone on record before a committee on the statements I have been reading to the Senate, he would not dare interpret it otherwise than he has in his statements which I have been reading.

Mr. President, to all intents and purposes, there is no difference between the plan submitted last year by the Senator from Ohio in what was called the Taft substitute for the Taft-Hartley law, and Reorganization Plan No. 12.

The Taft substitute, passed by the Senate in 1949, contained all of the language of sections 3 and 4 of the Taft-Hartley Act, except that section 3 (d), providing for the independent office of general counsel, was completely omitted.

On the single issue of the abolition of the office of general counsel, the Taft substitute bill and Reorganization Plan No. 12 are identical, except that under the Taft bill all administrative or other functions of the general counsel would have gone to the Board as a whole, while under Reorganization Plan No. 12 the purely administrative and housekeeping functions of the general counsel are transferred to the Chairman of the Board, in accordance with the Hoover recommendation. Even in the exercise of these functions the Chairman is to be governed by the general policies of the Board. Since the Taft substitute bill retained the language from the Taft-Hartley Act which made procedural changes, and since the reorganization plan will not affect this language in any particular, the Senator from Ohio in 1949 was supporting exactly what is being accomplished by this reorganization plan.

The Senator from Ohio has been arguing that this plan is not the same as what he proposed last year. He claims that this plan will merely transfer the power from the general counsel to the

Chairman of the Board, that this is a political use of the Hoover Commission recommendations, and that it makes a substantive change in the law. He further says that this is an improper use of the functions of the reorganization plan.

When the Senate or the House of Representatives passes upon this plan, it will either become a law or will not become a law. In other words, if we are changing substantive law, the Senate is changing it. The argument made here seems to me to be fallacious and unsound.

Although the Chairman of the Board will exercise the administrative and housekeeping functions for the entire Board, he is still subject to the general policies of the Board, and there is not an independent office such as the office of general counsel which now exists. The bifurcation, with its split authority, will be done away with, just as in the Taft substitute.

It is clear from the reorganization plan that all the investigation and prosecution functions will be vested in the Board as a whole, and not in the Chairman. That is the real distinction, so far as the Senator from Ohio is concerned.

The Senator from Ohio is adopting a strained construction of the reorganization plan. This is not the interpretation made by the Chairman of the NLRB, who will actually put the plan into operation, as I have stated.

On May 4, 1949, the Senator from Ohio inserted in the body of the RECORD a list of the proposed changes from the Taft-Hartley law made by his bill. The fifth point was the following:

> The independent general counsel provision is eliminated so that the Board will be governed hereafter by the provisions of the Administrative Procedure Act, except that we have retained certain of the procedural reforms made in the Taft-Hartley law.

Mr. President, that is exactly what is done by Reorganization Plan No. 12.

In the debate on this measure on June 29, 1949, the Senator from Ohio outlined the confusion which had arisen because of the separate office of general counsel, and extolled the virtues of the Administrative Procedure Act which would be applicable under his bill, as well as under Reorganization Plan No. 12. He said:

> I believe that the amendments which we have suggested are important. Perhaps the most important one is the elimination of the independent general counsel. The difficulty which arose with the independent general counsel was that he took a different view of the jurisdiction of the Board than did the Board itself.

He did so upon not one but upon hundreds of complaints which came before that group. Mr. President, talk about chaos and confusion. Talk about questions being of a delicate nature. Talk about questions that cause emotionalism and bitterness to arise. How could they help but arise under the operations of such a monstrosity as this, a general counsel who has arbitrary and dictatorial powers, and who is in constant conflict with the members of the Board? Is there any wonder the National Labor Relations Board has not done its work as well as it should have done?

I continue to quote the Senator from Ohio:

> He would bring a case which he thought was covered by the act. After a year's litigation the Board would rule that it was not covered by the act.

Can one imagine anything more silly than that? Here is a counsel who has the power under the present law to bring in a case, and he rules it is covered by the act. Then the Board says it is not covered by the act. Yet, Mr. President, there is presumed to be harmony and cooperation in the Board.

I continue to read from the Senator from Ohio:

> In the last analysis the Board determined the result, but in the meantime there was confusion. There was a difference of opinion. There was difficulty in the separation of powers. Under the Administrative Procedure Act, which was passed since the passage of the original National Labor Relations Act, the judicial and prosecuting functions are largely separated, although not entirely so.

This is the Senator from Ohio talking to the Senate 1 year ago. It is not the Senator from Illinois or any other Senator talking. It is the Senator from Ohio talking to the Senate 1 year ago, the same Senator who now says that he wants to leave the situation just as it is, after the Senate passed the substitute measure last year abolishing the general counsel's powers.

The Senator from Ohio continued:

> The procedure goes back to the Board. However, we felt that on the whole that separation accomplished the purposes we were trying to accomplish in not having the same people bring the prosecution, try the case, and then judge those who they themselves had indicted. That was one of the strong protests made by the labor unions, and we felt that it was sufficiently justified to go back to the Administrative Procedures Act and rely upon that for a fair treatment by the Board (CONGRESSIONAL RECORD, June 29, 1949, p. 8586).

On June 30, 1949, the Senator from Ohio made the following statement with respect to this issue:

> The amendments which we have suggested are important ones. The most vigorous protest was directed against the operation of the independent general counsel. While there was some doubt on my part, we agreed that provisions should be eliminated and that we should return to the administrative procedure of the National Labor Relations Board. It is a great improvement over the original procedure, although it does not completely separate the prosecuting and judicial functions (CONGRESSIONAL RECORD, June 30, 1949, p. 8712).

Mr. President, let us note the difference between the position of the Senator a year ago and his position now. What has changed the opinion of the Senator from Ohio with respect to this very important matter?

When the Senator from Ohio says "it is a great improvement over the original procedure," he is referring to the minor procedural changes made by the Taft-Hartley Act, which he says are an improvement over the original act.

This plan would reorganize the NLRB so that it would conform to the general pattern of good organization recommended by the Hoover Commission for regulatory commissions. The Hoover Commission itself recommended that "all administrative responsibility be vested in the chairman of the commission." That is the purpose of Reorganization Plan No. 12.

The task force of the Hoover Commission responsible for studying the regulatory commissions commented on the anomalous organization of the NLRB. The task force report said:

> The existence of such an office (i. e., the general counsel), independent both of the Federal department structure and of the Board marks a departure from previous administrative practice. If permitted to set a pattern for future Government organization it may lead to a diffusion of responsibility.

In its conclusions the task force recommended that a review of the NLRB should consider four factors. The fourth of these was:

> The office of general counsel should not be left independent of both the Board and the executive departments but should be integrated more closely into one or the other according to the functions to be performed.

Reorganization Plan No. 12 eliminates a confusing, inefficient and probably dangerous method of organization.

The incumbent general counsel, Denham, has said that his powers—listen to his statement—"are broad and absolute and his authority final to an outstanding degree seldom accorded a single officer in a peacetime agency"—Senate hearings, page 6.

We hear much said about the granting of powers to the executive branch of the Government We hear constant discussion and debate with respect to the granting of dictatorial and arbitrary power. Listen to what Mr. Denham himself says about the power he has. He said before the Senate committee, and it appears in the Senate hearings on page 6, that his powers "are broad and absolute and his authority final to an outstanding degree seldom accorded to a single officer in a peacetime agency."

Mr. President, to me it appears extremely dangerous that such a grant should be made. I care not who is granted such power; it is dangerous. It is dangerous to the country that such power should be put into the hands of any one man, whether he be Mr. Denham or whether he be Mr. Herzog, or someone else. Mr. Denham admitted boldly before the committee that he has more authority—more power—than any single officer has ever been granted at any time past.

This dual administration of one law has resulted in many conflicts:

First. The general counsel has interpreted the Taft-Hartley Act so that his jurisdiction is practically unlimited. The NLRB itself has refused to act where the amount of interstate business is insubstantial. These two conflicting interpretations of the jurisdiction granted by the Taft-Hartley Act cause confusion and waste.

Second. The Board's orders must be enforced in the courts, but no provision is made for a legal staff with which to perform this function. Think of that, Mr. President. All the lawyers of the NLRB are under the supervision of the general counsel. Experience shows that in some instances the general counsel has refused to permit his legal staff to enforce the orders in the courts.

Does confusion, does chaos exist in the Board? Yet, when we have an opportunity, under the Reorganization Plan No. 12, to end the confusion, some wish the situation to continue as it is. Some Senators are going to vote to continue the abominable situation which exists today.

Third. The general counsel has unlimited discretion to refuse to issue a complaint. Yet it is this choice of cases in which to proceed that in a large measure determines administrative practice.

Reorganization Plan No. 12 preserves all the safeguards essential to due process and provides for a workable separation of the functions of investigation and prosecution on the one hand and decision on the other within the framework of the single agency organization.

Under the Administrative Procedure Act of 1946, regulatory commissions are to separate the prosecution and decision functions. This means that organizationally and administratively the Commission is organized as a single unit, but within that organization certain individuals will handle the investigation and prosecution, while others will make decisions on cases presented. That is the way it should be.

Mr. President, this is the general pattern of the organization of the other regulatory Commissions, such as the Interstate Commerce Commission, the Federal Trade Commission, the Federal Communications Commission, and others. Reorganization Plan No. 12 will conform the NLRB to this pattern. The Administrative Procedure Act has proved workable in separating the prosecution of cases from the decision of cases without introducing the confusing and wasteful practice of establishing separate offices for general counsels.

Mr. President, in conclusion I say that if the Senate of the United States really desires to do something in the way of encouraging good labor-management relations, now is the time to act so such relations may be encouraged, by adopting the Reorganization Plan No. 12 submitted by the President of the United States. If the plan is not adopted, the situation will remain as it is, with all the conflicts that exist, with all the confusion that exists, and which has existed ever since the Taft-Hartley Act has been the law of the land. How any United States Senator can put the Federal Trade Commission, the Interstate Commerce Commission, the Federal Communications Commission, and other commissions in one category, giving them the power they ought to have, and the diffusion of power they ought to have, and yet hamstring the National Labor Relations Board, is more than I can understand.

It seems to me that, definitely, it is a penalty on labor's head, and would impede what labor is trying to do, by refusing to permit this kind of an organization to go into effect, an organization by means of which we shall have some order, instead of the chaos and the confusion which have existed since the beginning of this act.

Mr. TAFT. Mr. President, do I correctly understand that if I yield the remainder of my time, the Senator will yield the remainder of his?

Mr. LUCAS. Yes.

Mr. TAFT. Then, Mr. President, I yield the remainder of my time.

Mr. LUCAS. I yield the remainder of the time allotted to this side.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Hayden	Martin
Anderson	Hendrickson	Maybank
Benton	Hickenlooper	Millikin
Brewster	Hill	Mundt
Bricker	Hoey	Myers
Bridges	Holland	Neely
Butler	Hunt	O'Conor
Byrd	Ives	Robertson
Cain	Jenner	Saltonstall
Capehart	Johnson, Colo.	Schoeppel
Chapman	Johnson, Tex.	Smith, Maine
Chavez	Johnston, S. C.	Smith, N. J.
Connally	Kefauver	Sparkman
Cordon	Kem	Stennis
Darby	Kerr	Taft
Donnell	Kilgore	Taylor
Douglas	Knowland	Thomas, Okla.
Dworshak	Langer	Thomas, Utah
Eastland	Leahy	Thye
Ecton	Lehman	Tobey
Ellender	Lodge	Tydings
Ferguson	Long	Watkins
Flanders	Lucas	Wherry
Fulbright	McCarthy	Wiley
George	McClellan	Williams
Gillette	McFarland	Withers
Green	McKellar	Young
Gurney	Malone	

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to Senate Resolution 248.

Perhaps the Chair will be permitted to make this statement, in the interest of clarity:

The resolution is in negative form:

Resolved, That the Senate does not favor the Reorganization Plan No. 12 of 1950 transmitted to Congress by the President on March 13, 1950.

Therefore, those who do not favor Reorganization Plan No. 12 of 1950 will vote "yea." Those who do favor Reorganization Plan No. 12 of 1950 will vote "nay."

The Parliamentarian informs the Chair of the fact that at least 49 votes are required in order to adopt this resolution.

Mr. WHERRY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. MYERS. I announce that the Senator from California [Mr. DOWNEY] is absent because of illness.

The Senator from Delaware [Mr. FREAR], and the Senator from Wyoming [Mr. O'MAHONEY] are absent on official business.

The Senator from North Carolina [Mr. GRAHAM], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Connecticut [Mr. MCMAHON], and the Senator from Florida [Mr. PEPPER] are absent on public business.

The Senator from Washington [Mr. MAGNUSON], and the Senator from Nevada [Mr. MCCARRAN] are absent by leave of the Senate on official business.

The Senator from Montana [Mr. MURRAY] is absent because of illness in his family.

The Senator from Georgia [Mr. RUSSELL] is absent by leave of the Senate.

I announce further that if present and voting, the Senator from Minnesota [Mr. HUMPHREY], the Senator from Washington [Mr. MAGNUSON], the Senator from Connecticut [Mr. MCMAHON], the Senator from Montana [Mr. MURRAY], the Senator from Wyoming [Mr. O'MAHONEY], and the Senator from Florida [Mr. PEPPER] would vote "nay."

Mr. SALTONSTALL. I announce that the Senator from Oregon [Mr. MORSE] is absent by leave of the Senate and is paired with the Senator from Michigan [Mr. VANDENBERG] who is also absent by leave of the Senate. If present and voting, the Senator from Oregon would vote "nay" and the Senator from Michigan would vote "yea."

The result was announced—yeas 53, nays 30, as follows:

YEAS—53

Brewster	Fulbright	Millikin
Bricker	George	Mundt
Bridges	Gillette	O'Conor
Butler	Gurney	Robertson
Byrd	Hendrickson	Saltonstall
Cain	Hickenlooper	Schoeppel
Capehart	Hoey	Smith, Maine
Chapman	Holland	Smith, N. J.
Connally	Jenner	Stennis
Cordon	Johnson, Tex.	Taft
Darby	Kem	Thye
Donnell	Kerr	Tydings
Dworshak	Knowland	Watkins
Eastland	McCarthy	Wherry
Ecton	McClellan	Wiley
Ellender	Malone	Williams
Ferguson	Martin	Young
Flanders	Maybank	

NAYS—30

Aiken	Johnson, Colo.	McFarland
Anderson	Johnston, S. C.	McKellar
Benton	Kefauver	Myers
Chavez	Kilgore	Neely
Douglas	Langer	Sparkman
Green	Leahy	Taylor
Hayden	Lehman	Thomas, Okla.
Hill	Lodge	Thomas, Utah
Hunt	Long	Tobey
Ives	Lucas	Withers

NOT VOTING—13

Downey	McMahon	Pepper
Frear	Magnuson	Russell
Graham	Morse	Vandenberg
Humphrey	Murray	
McCarran	O'Mahoney	

So the resolution of disapproval of Reorganization Plan No. 12 of 1950 was agreed to.

Mr. TAFT. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. TAFT. Is a motion to reconsider in order?

The VICE PRESIDENT. It is not. Under the act and the rule, it is not in order.

STEPS TOWARD FEDERATION OF THE WESTERN EUROPEAN COUNTRIES

(By unanimous consent, the following remarks by Mr. FULBRIGHT, delivered

during the course of the proceedings on Senate Resolution 248, were ordered to be printed at this point in the RECORD:)

Mr. FULBRIGHT. Mr. President, I was pleased, indeed, to read in the morning newspapers about the proposal of the French Government to combine the French and German coal and steel industries. I regard this as an extremely important proposal. If it is carried through successfully, it will be a large and an important step along the road toward federation of the western European countries.

For more than 3 years I have done everything I could to persuade our Government to promote the unification of Europe. Except for the recent activities of Mr. Paul Hoffman, of the ECA, our Government has taken the attitude that we should not interfere in this matter, not even to the extent of suggesting it.

Now that the French Government has taken the lead, I think our Government ought to give the proposal wholehearted and enthusiastic support. Secretary Acheson is now in Europe, and I urge him to take the proposal seriously and to pledge our support and cooperation in every possible way.

There are, of course, many difficulties involved in the scheme. It will undoubtedly meet with much opposition from local interests. It is already suggested in the press that Great Britain is not enthusiastic about it.

Mr. President, with regard to practically all other suggestions concerning European unification, the present Labor Government of Great Britain has been reluctant to lend its support. I sincerely hope that in this instance that government will consider most seriously the possible consequences of rebuffing this courageous and far-sighted leadership on the part of the French Government.

Many of us, including myself, have been losing our enthusiasm for the Marshall plan because of the apparent impossibility of making any progress toward European federation. If none is made, I believe the British must assume much of the responsibility, and I believe the consequences will be very serious indeed.

Mr. President, I wish to congratulate the French Government for having the imagination and the courage to make this proposal. We have heard a great deal recently to the effect that the French Government is politically weak, being torn by the Communists. However, this proposal would indicate that the French Government has a considerably greater amount of strength than I had thought or that the press had indicated it had, because the Communists have traditionally, for many years, opposed any step toward the unification of Europe.

Mr. President, in order that the RECORD may be as informative as possible, I now ask unanimous consent to have included at this point in the RECORD as a part of my remarks the text of the proposal of the French, as it appears in the New York Times of May 11.

There being no objection, the text of the plan was ordered to be printed in the RECORD, as follows:

TEXT OF THE FRENCH COAL-STEEL POOL PLAN

The peace of the world can only be preserved if creative efforts are made which are commensurate, in their scope, with the dangers which threaten peace.

The contribution which an organized and active Europe can make to civilization is indispensable for the maintenance of peaceful relations. France, by championing during more than 20 years the idea of a united Europe, has always regarded it as an essential objective to serve the purposes of peace. Because Europe was not united, we have had war.

A united Europe will not be achieved all at once, nor in a single framework: it will be formed by concrete measures which first of all create a solidarity in fact. The uniting of the European nations requires that the age-old opposition between France and Germany be culminated; the action to be taken must first of all concern France and Germany.

ASKS ACTION ON GERMANY FIRST

To that end, the French Government proposes that immediate action be concentrated on one limited, but decisive point:

The French Government proposes that the entire French-German production of coal and steel be placed under a joint high authority, within an organization open to the participation of other European nations.

The pooling of coal and steel production will immediately assure the establishment of common bases for economic development, which is the first state for a European federation, and will change the destiny of these regions which have long been devoted to the production of arms to which they themselves were the first to fall constantly victim.

The community of production which will in this manner be created will clearly show that any war between France and Germany becomes not only unthinkable, but in actual fact impossible. The establishment of this powerful production unit, open to all countries that wish to participate in it, will give a real foundation to their economic development, by furnishing on equal terms to all countries thus united the fundamental elements of industrial production.

This production will be offered to the entire world, without distinction or exclusion, as a contribution to the raising of living standards and to the progress of world peace. Europe, with its resources thus increased, will be able to pursue one of its essential tasks—the development of the African Continent.

This will quickly and easily bring about the fusion of interests which is indispensable to the establishment of an economic community and introduce a leaven of broader and deeper community of interest between countries which have long been divided by bloody conflict.

By pooling basic production and by creating a new high authority whose decisions will be binding on France, Germany, and the other countries who may subsequently join, this proposal will create the first concrete foundation for a European federation which is so indispensable for the preservation of peace.

In order to pursue the objectives so defined, the French Government is prepared to initiate negotiations on the following bases:

The functions entrusted to the joint high authority will be, as quickly as possible, to modernize production and improve its quality; to supply coal and steel on equal terms to the French and German markets as well as to those of the member countries; to develop joint exports to other countries; to improve and equalize conditions of life and work in these industries.

In order to reach these objectives in the light of the disparate conditions of production prevailing in the member countries, certain transitional measures must be taken involving the application of a production and investment plan, the institution of a mechanism for equalizing prices, and the creation of a reconversion fund to facilitate the rationalization of production. The flow of coal and steel between member countries will be immediately exempted from all customs duties and may not be subject to freight differentials. In this way conditions will be progressively created which will automatically insure the most effective rationalization of production on the basis of the highest level of productivity.

CALLED UNLIKE A CARTEL

Unlike an international cartel whose purpose is to divide up and exploit national markets through restrictive practices, and the maintenance of high profits, the projected organization will insure the fusion of markets and the expansion of production.

The principles and the essential undertakings defined above will be the subject of a treaty between the states to be submitted to parliaments for ratification. The negotiations required to work out the details of implementation will be conducted with the assistance of jointly designated arbiter. The latter's duty will be to see that the agreements conform with the principles and, in the event of final disagreement, to determine the solution to be adopted.

The joint high authority charged with the operation of the entire system will be composed of independent personalities chosen on a basis of equality by the governments; a president will be chosen by the governments by common agreement; his decisions will be enforceable in France, Germany, and the other member countries. Appropriate measures will assure the necessary channels of appeal against the decisions of the high authority. A representative of the United Nations near the authority will be charged with making a public report to U. N. twice a year on the functioning of the new organization, particularly with respect to protecting its peaceful aims.

The setting up of the high authority in no way prejudices the question of ownership of the enterprises. In the exercise of its mission, the joint high authority will take into account the powers conferred on the international Ruhr authority and the obligations of every kind imposed on Germany as long as they are in existence.

Mr. FULBRIGHT. Mr. President, I also ask unanimous consent to have printed at this point in the RECORD an article pertaining to this proposition, by Mr. Walter Lippmann, appearing in this morning's newspapers. As everyone knows, Mr. Lippmann has for many years almost alone among the columnists supported vigorously the movement and the idea of European federation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TODAY AND TOMORROW

(By Walter Lippmann)

A MOST IMPORTANT EVENT

The French proposal to Germany, announced Tuesday evening by Mr. Schuman, has taken the world by surprise. But it is a very pleasant surprise. The French Government has proposed to the German nation much more than concessions on this and that. The French have proposed that they take the first but also by all odds the most important step toward a final liquidation of the Franco-German conflict in Europe.

81ST CONGRESS
2D SESSION

S. RES. 248

IN THE SENATE OF THE UNITED STATES

APRIL 3 (legislative day, MARCH 29), 1950

Mr. TAFT submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

APRIL 24 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, without amendment

MAY 11 (legislative day, MARCH 29), 1950

Considered and agreed to

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 12 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 248

RESOLUTION

Disapproving Reorganization Plan Numbered 12 of 1950.

By Mr. TAFT

APRIL 3 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

APRIL 24 (legislative day, MARCH 29), 1950
Reported without amendment

MAY 11 (legislative day, MARCH 29), 1950
Considered and agreed to

81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 517

REORGANIZATION PLAN NO. 13 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 13 OF 1950 PROVIDING FOR REORGANIZATIONS IN THE CIVIL AERONAUTICS BOARD

March 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 13 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Civil Aeronautics Board. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 13 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 13 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

CIVIL AERONAUTICS BOARD

Section 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Civil Aeronautics Board, hereinafter referred to as the Board, to the Chairman of the Board, hereinafter referred to as the Chairman, the executive and administrative functions of the Board, including functions of the Board with respect to (1) the appointment and supervision of personnel employed under the Board, (2) the distribution of business among such personnel and among administrative units of the Board, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Board shall be subject to the approval of the Board.

(3) Personnel employed regularly and full time in the immediate offices of members of the Board other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Board its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

Sec. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

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81st Congress, 2d Session | SENATE | Report No. 1686

REORGANIZATION PLAN NO. 13 OF 1950, PROVIDING FOR REORGANIZATION IN THE CIVIL AERONAUTICS BOARD

May 19 (legislative day, March 29), 1950.—Ordered to be printed

Mr. O'Conor, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

By authority of the Reorganization Act of 1949 (Public Law 109, 81st Cong., 1st sess., June 20, 1949), the President of the United States has submitted to the Congress Reorganization Plan No. 13, providing for the reorganizations in the Civil Aeronautics Board.

This committee, although under no requirement to do so by that act, hereby reports favorably on Reorganization Plan No. 13, in order that the Senate may know the result of the committee's consideration thereof, and may have adequate information as to its provisions.

[H. Doc. No. 517, 81st Cong., 2d sess.]

Message From the President of the United States, Transmitting Reorganization Plan No. 13 of 1950 Providing for Reorganizations in the Civil Aeronautics Board

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 13 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Civil Aeronautics Board. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 13 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

Harry S. Truman.

The White House, *March 13, 1950.*

Reorganization Plan No. 13 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

CIVIL AERONAUTICS BOARD

Section 1. *Transfer of functions to the Chairman.*—(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Civil Aeronautics Board, hereinafter referred to as the Board, to the Chairman of the Board, hereinafter referred to as the Chairman, the executive and administrative functions of the Board, including functions of the Board with respect to (1) the appointment and supervision of personnel employed under the Board, (2) the distribution of business among such personnel and among administrative units of the Board, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Board shall be subject to the approval of the Board.

(3) Personnel employed regularly and full time in the immediate offices of members of the Board other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Board its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

Sec. 2. *Performance of transferred functions.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

THE COMMITTEE'S FINDINGS

The intent of Reorganization Plan No. 13 of 1950 is to transfer administrative responsibility for the operation of the Civil Aeronautics Boards from the Board members, where it is presently lodged, to the Chairman.

The single objective of Plan No. 13 is to improve the organization, the administration, and the operation of the Civil Aeronautics Board by providing clear-cut channels of authority, by strengthening management, and by eliminating confusion identified with "multiheaded" direction. It should be noted that this reorganization plan in no way alters, modifies, or diminishes the substantive quasi-judicial or quasi-legislative functions of the Civil Aeronautics Board which are vested by statute in the Chairman and the Board members or the Board as a whole.

The President in his message transmitting Plans Nos. 7 through 13, dealing with regulatory agencies, to the Congress stated in part:

> In regard to the regulatory agencies, the plans distinguish between two groups of functions necessary to the conduct of these agencies. One group includes the substantive aspects of regulation—that is, the determination of policies, the formulation and issuance of rules, and the adjudication of cases. All these functions are left in the board or commission as a whole. The other group of functions comprises the day-to-day direction and internal administration of the complex staff organizations which the commissions require. These responsibilities are transferred to the chairman of the agencies, to be discharged in accordance with policies which the commissions may establish. The chairman is to be designated in each agency by the President from among the commission members.

The Commission on Organization of the Executive Branch of the Government, upon whose recommendations the provisions of plan No. 13 are based, indicated clearly that the consummation of its recommendations would have no effect whatsoever upon the quasi-judicial or the quasi-legislative functions of any regulatory agency.

In referring to its important recommendation that all administrative responsibility be vested in the chairman, the Commission on Organization stated:

> This recommendation does not derogate from the statutory responsibilities placed upon the other members of the commission. They remain exactly as they are, and because of the better functioning of the organization the commission members will be enabled to discharge these responsibilities much more effectively.

Plan No. 13 accomplishes the Commission on Organization's objective of centering administrative responsibility for day-to-day operations of the Civil Aeronautics Board in its Chairman by (1) transferring (subject to the limitations hereafter defined) of all executive functions to the Chairman, and (2) authorizing the Chairman to redelegate these functions to officials, employees, and staff units of the Board.

This accords with recommendations of the Hoover Commission, not only in its first report on general management of the executive branch (recommendation 14, "Heads of departments must have full responsibility for conduct of their departments"; recommendation 18, "Each department head should receive from Congress administrative authority to organize his department"; recommendation 20, "The department head should be given authority to determine the organization within his department"), but more specifically in its report on regulatory commissions (recommendation 1, "We recommend that all administrative responsibility be vested in the chairman of the Commission," and recommendation 6, "That the statutes be amended to permit commissions to delegate routine * * * work to members of (their) staffs").

In reaching its conclusions upon which the above recommendations were based the Commission on Organization found that—

> administration by a plural executive is universally regarded as inefficient * * *. Indeed, those cases where administration has been distinctly superior are cases where the administrative as distinguished from the regulatory duties have been vested in the chairman (Report on Regulatory Commissions, p. 5).

Elsewhere the Commission on Organization observed:

> Purely executive duties—those that can be performed far better by a single administrative official—have been imposed upon these commissions with the result that these duties have sometimes been performed badly. The necessity for performing them has interfered with the performance of the strictly regulatory functions (Report on Regulatory Commissions, p. 3).

and

> Administrative direction has not developed within the commissions. Their chairmen are too frequently merely presiding officers at Commission meetings. No one has been responsible for planning and guiding the general program of Commission activity (Report on Regulatory Commissions, p. 4).

The Commission on Organization emphasized throughout its discussions of the regulatory commissions that the administrative burden has become so great upon individual commissioners that they are often forced to neglect their more vitally important substantive quasi-judicial functions. Plan No. 13 is designed to correct this situation within the CAB.

Section 1 of plan No. 13, which transfers the administrative functions to the Civil Aeronautics Board Chairman relating to (1) the appointment and supervision of personnel, (2) the distribution of the Board's business, and (3) the use and expenditure of funds, is rigidly limited. The Chairman would be governed by the general policies,

regulatory decisions, and determinations of the Board. The appointment by the Chairman of the heads of the major administrative units would be subject to full Board approval. Full-time personnel regularly employed in the immediate offices of the individual Board members would not be affected by the plan. And, finally, the functions relating to revising budget estimates and to determining the distribution of appropriated funds to major programs would be reserved specifically to the Board and not vested in the Chairman. In the view of such restrictions it is difficult indeed to see how the Chairman could misuse the new administrative powers vested in him even if he were inclined to do so.

Much concern has been expressed that plan No. 13 would "vitiate" the Administrative Procedure Act of 1946 with relation to the independent responsibilities of hearing examiners. In the judgment of the Committee on Expenditures in the Executive Departments this allegation is without merit.

As stated previously, plan No. 13 affects administrative matters only. In no way do its provisions affect substantive functions nor quasi-judicial procedure. The provisions of the Administrative Procedure Act relating to the separation of responsibilities of the Government's quasi-judicial bodies fully apply. Three specific protections in the act follow:

1. It provides for an internal separation of these two responsibilities so that the same individual cannot exercise both functions (sec. 5c).
2. It provides that no one who has participated in the prosecution of a case shall participate in or even advise in the decision of the regulatory commission or the hearing examiner (sec. 5c).
3. It provides that the hearing examiners, and the commissions when hearing cases on appeal, must make the decision in each case solely from the evidence, briefs, and oral arguments submitted on the record in connection with the quasi-judicial proceeding (sec. 7d).

Plan No. 13 applies to administrative functions and in no way relates to the separation of responsibilities provided for by the Administrative Procedure Act.

In addition to the above, plan No. 13 transfers no functions, administrative or otherwise, to the Chairman of the Civil Aeronautics Board which are not presently vested in the Board itself. It follows, therefore, that if adoption of plan No. 13 violates the Administrative Procedure Act the Civil Aeronautics Board has operated in violation of the act ever since it was enacted because the administrative functions transferred to the Chairman without exception have been previously vested in the Board itself.

CONCLUSION

The committee finds that (1) plan No. 13 in nowise affects the quasi-judicial functions of CAB; (2) makes no changes whatsoever in the substantive statutes governing CAB; and (3) seeks only to establish administrative responsibility for the day-to-day operations of the CAB.

The plan reflects the best judgment of the Commission on Organization, the best experience in the administration of regulatory agencies over the years, and offers not only greatly improved efficiency but long-range economy. Viewed objectively it marks a tremendous strike toward better government at lower cost.

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81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 518

REORGANIZATION PLAN NO. 14 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 14 OF 1950, FOR THE PURPOSE OF COORDINATING THE ADMINISTRATION OF LABOR STANDARDS

March 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 14 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. For the purpose of coordinating the administration of labor standards under various statutes relating to Federal construction and public works or to construction with federally financed assistance or guaranties, the reorganization plan authorizes the Secretary of Labor to prescribe appropriate standards, regulations, and procedures with respect to these matters and to make such investigations concerning compliance with, and enforcement of, labor standards as he deems desirable. The purpose is to assure consistent and effective enforcement of such standards.

The plan is in general accord with the recommendations of the Commission on Organization of the Executive Branch of the Government. It constitutes a further step in rebuilding and strengthening the Department of Labor to make it the central agency of the Government for dealing with labor problems.

After investigation I have found and hereby declare that the reorganization contained in this plan is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

There are several laws regulating wages and hours of workers employed on Federal contracts for public works or construction. The "eight hour laws" limit the employment of laborers and mechanics

on such projects to 8 hours per day and permit their employment in excess of that limit only upon condition that time and one-half the basic-wage rate is paid for the excess hours. The Davis-Bacon Act provides that the minimum rates of pay for laborers and mechanics on certain Federal public-works contracts shall be those prevailing for the corresponding classes of workers in the locality as determined by the Secretary of Labor. The Copeland anti-kick-back law prohibits the exaction of rebates or kick-backs from workers employed on the construction of Federal public works or works financed by the Federal Government and authorizes the Secretary of Labor to make regulations for contractors engaged on such projects.

In addition to the above statutes, there are several acts which require the payment of prevailing-wage rates, as determined by the Secretary of Labor, to laborers and mechanics employed on construction financed in whole or in part by loans or grants from the Federal Government or by mortgages guaranteed by the Federal Government. These acts are: the National Housing Act, the Housing Act of 1949, the Federal Airport Act, and the Hospital Survey and Construction Act of 1946.

With the exception of the Department of Labor, the Federal agencies involved in the administration of the various acts are divided into two classes: (1) agencies which contract for Federal public works or construction; and (2) agencies which lend or grant Federal funds, or act as guarantors of mortgages, to aid in the construction of projects to be built by State or local public agencies or private individuals and groups. The methods of enforcing labor standards necessarily differ between these two groups of agencies.

The methods adopted by the various agencies for the enforcement of labor standards vary widely in character and effectiveness. As a result, uniformity of enforcement is lacking and the degree of protection afforded workers varies from agency to agency.

In order to correct this situation, this plan authorizes the Secretary of Labor to coordinate the administration of legislation relating to wages and hours on federally financed or assisted projects by prescribing standards, regulations, and procedures to govern the enforcement activities of the various Federal agencies and by making such investigations as he deems desirable to assure consistent enforcement. The actual performance of enforcement activities, normally including the investigation of complaints of violations, will remain the duty of the respective agencies awarding the contracts or providing the Federal assistance.

Since the principal objective of the plan is more effective enforcement of labor standards, it is not probable that it will result in savings. But it will provide more uniform and more adequate protection for workers through the expenditures made for the enforcement of the existing legislation.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 14 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

LABOR STANDARDS ENFORCEMENT

In order to assure coordination of administration and consistency of enforcement of the labor standards provisions of each of the following Acts by the Federal agencies responsible for the administration thereof, the Secretary of Labor shall prescribe appropriate standards, regulations, and procedures, which shall be observed by these agencies, and cause to be made by the Department of Labor such investigations, with respect to compliance with and enforcement of such labor standards, as he deems desirable, namely: (a) The Act of March 3, 1931 (46 Stat. 1494, ch. 411), as amended; (b) the Act of June 13, 1934 (48 Stat. 948, ch. 482); (c) the Act of August 1, 1892 (27 Stat. 340, ch. 352), as amended; (d) the Act of June 19, 1912 (37 Stat. 137, ch. 174), as amended; (e) the Act of June 3, 1939 (53 Stat. 804, ch. 175), as amended; (f) the Act of August 13, 1946 (60 Stat. 1040, ch. 958); (g) the Act of May 13, 1946 (60 Stat. 170, ch. 251), as amended; and (h) the Act of July 15, 1949 (ch. 338, Public Law 171, Eighty-first Congress, first session).

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81st Congress, 2d Session | SENATE | Report No. 1546

REORGANIZATION PLAN NO. 14 OF 1950, COORDINATION OF THE ADMINISTRATION OF LABOR STANDARDS

May 10 (legislative day, March 29), 1950.—Ordered to be printed

Mr. McClellan, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

On March 13, 1950, the President of the United States, by authority contained in the Reorganization Act of 1949 (Public Law 109, 81st Cong., June 20, 1949), submitted to the Congress Reorganization Plan No. 14 of 1950.

Although not required by the Reorganization Act of 1949 to do so, this committee hereby reports favorably on the plan so that the Senate may know the result of the committee's consideration thereof and may have the benefit of the comprehensive study which has been made with respect thereto.

PURPOSE

There are a number of Federal laws which provide for the maintenance of certain standards as related to the employment of laborers and other persons engaged on contracts to which the United States is a direct or indirect party. At the present time, the administration of these acts prescribing labor standards and the enforcement thereof are a responsibility of the heads of the respective agencies which may be involved. Thus it may be seen that such administration and enforcement vary according to interpretation and to method utilized under the processes of any particular agency.

For the purpose of assuring uniformity throughout the Federal Government, both as to administration and enforcement in relation to all such labor-standards provisions, authority is centralized by this plan in the Secretary of Labor, to prescribe uniform standards, regulations, and procedures for observance by all Federal agencies concerned and to make investigations so as to insure compliance with, and enforcement of, such standards.

While the plan makes reference to "Federal agencies" only, certain legislative enactments affected include contractual undertakings not only by the United States but also by the District of Columbia,

Alaska, and Hawaii. The committee recognizes the possibility that grounds may thus be conceived to exist for argument that the plan would not require other than Federal contracting agencies to abide by such uniform standards, regulations, and procedures as may be prescribed by the Secretary of Labor. However, the committee is advised by the Office of the Solicitor of the Department of Labor that, through well-established precedence, if not otherwise, all contracting agencies enumerated in the several laws involved, and with respect to which the Congress had and has undisputed power to legislate, may confidently be expected to consider themselves bound by the effects of the plan.

CONFORMANCE WITH RECOMMENDATIONS OF THE HOOVER COMMISSION

In his letter of transmittal, the President states that this reorganization plan is in general accord with recommendations of the Hoover Commission. While the committee finds no specific recommendation of the Commission for the action taken by this plan, the following paragraphs would tend to indicate that this centralizing in the Secretary of Labor of responsibility for rules of administration and enforcement of labor standards is agreeable to the tenor of the Commission's attitude toward the Department of Labor and with the Commission's general position that similar functions should be grouped together.

The Hoover Commission definitely favored rebuilding of the Department of Labor by returning to it many functions previously severed and by placing in that Department functions hitherto lodged elsewhere. For example, in Report No. 13, Department of Labor, recommendation No. 7 is prefaced by a statement that—

> "Prevailing Wage" inquiries incident to determining wages for blue-collar Federal employees are now conducted by the several agencies, and should be centered in the Bureau of Labor Statistics.

Recommendation No. 7 itself states that there should be centralized in the Bureau of Labor Statistics responsibility for collection of data, research, and analysis relating to wholesale prices and living costs, employment and unemployment, working hours, wages, payrolls, and productivity.

Further, at the beginning of chapter 4 of the Hoover Commission's report on the Department of Labor is an enumeration of eight separate agencies and functions suggested for transfer to the Department of Labor. This does not constitute one of the numbered major recommendations of the Commission but is in the nature of an inferential recommendation. The fifth item in the enumeration is "Enforcement of labor standards in Government contracts (from contracting departments and agencies)."

The committee, however, wishes to emphasize the distinction between the significance of the foregoing quotation and the transfer proposed by Reorganization Plan No. 14. That distinction is that, whereas the quoted excerpt from the Hoover Commission's report relates to the actual enforcement of labor standards in Government contracts, Reorganization Plan No. 14 relates to the prescribing by the Secretary of Labor of "appropriate standards, regulations, and procedures" with respect to the administration and enforcement of labor standards in Government contracts. The importance of the

distinction is that the enforcement and administration of labor standards are not transferred by the plan but remain vested in the individual agencies and departments of the Government.

Particularly pertinent to Reorganization Plan No. 14 is the following quotation from chapter V, entitled "Enforcement and Promotion of Employment Standards," of the Hoover Commission Task Force on Public Welfare (appendix P, p. 459):

> Regulation of employment standards is an established function of the Federal Government, partly as a means of preserving prevailing wage rates in the construction industry on Federal public-works contracts, and partly to promote economic stability by establishing a national wage floor for economic competition. These functions are centralized in the Labor Department, with the exception of the enforcement responsibilities in connection with contract violations, and the Maritime Commission's function of setting minimum wages in operating-differential subsidy contracts with private American companies engaged in foreign shipping. These are appropriate functions of the Labor Department, to which they should be transferred in connection with clarifying amendments to the coverage and exemptive provisions of the Fair Labor Standards Act.

ACTS AFFECTED

This reorganization plan enumerates the laws of the United States in which are found the labor-standards provisions with respect to which authority for prescribing standards, regulations, and procedures, and for the making of investigations as to compliance and enforcement, is centered in the Secretary of Labor. There follows a list of those laws and a brief identification of each.

Act of March 3, 1931.—This is a general law which provides that each contract in excess of $2,000 to which the United States, the District of Columbia, the Territory of Alaska, or the Territory of Hawaii is a party and which involves the construction, alteration, or repair of public buildings or public works, shall contain a provision stating the prevailing minimum wages as determined by the Secretary of Labor to be paid various classes of laborers and mechanics to be engaged.

Act of June 13, 1934.—This is a provision of law that prohibits anyone from inducing, through threat, intimidation, or similar force, any person employed under a construction contract to which the United States is a direct or indirect party to give up any part of his compensation. The Secretary of Labor is already, in this case, empowered to establish reasonable regulations for contractors and subcontractors.

Act of August 1, 1892.—This is an 8-hour law for laborers and mechanics generally, and specifically for any persons employed to perform services similar to those of laborers and mechanics in connection with dredging or rock excavation in any river or harbor of the United States or the District of Columbia, on work for which the United States or the District of Columbia is the direct employer or is a contract party.

Act of June 19, 1912.—This law is similar to the act of August 1, 1892, and may be defined as a general 8-hour law for laborers and mechanics involved in work to which the United States is a contract party.

Act of June 3, 1939.—This is a law relating to insurance by the United States of financial institutions to preserve them from loss as a result of loans and advances of credit and similar financial operations in connection with alterations, repairs, and improvements to existing structures and the building of new structures.

Specifically, section 212 (a) of this act provides that the National Housing Administrator shall not insure against loss in connection with construction unless the principal contractor certifies that the laborers and mechanics employed on the project have been paid not less than locally prevailing wages for corresponding classes of employees. This law already provides that determination as to prevailing wages shall be by the Secretary of Labor, and this plan would transfer to him additional authority relating to uniform administration and enforcement of labor standards.

Act of August 13, 1946, Hospital Survey and Construction Act.—This is a law relating to construction of hospitals. Specifically, section 625 (a) of the act provides that a State plan for construction thereunder must include assurance to the Surgeon General of the United States that rates of pay for laborers and mechanics engaged in construction on the project will not be less than prevailing wages, as determined by the Secretary of Labor, for similar work.

Act of May 13, 1946, Federal Airport Act.—This is a law relating to construction of airports. Specifically, section 15 (b) of the act provides that all contracts in excess of $2,000 for work on projects approved under the act and wherein labor is involved shall contain provisions establishing minimum rates of pay, such rates to be predetermined by the Secretary of Labor. Under this reorganization plan the Secretary of Labor will be empowered to prescribe rules relating to the administration and enforcement of labor standards, in addition to his existing authority relating to determination of prevailing wages.

Act of July 15, 1949, Housing Act of 1949.—This law relates to slum clearance, community development, and allied activities. Specifically, section 109 provides that each contract for financial aid under the act shall contain provision for payment of locally prevailing salaries to architects, engineers, draftsmen, and technicians, and for the payment of locally prevailing wages to laborers and mechanics employed on the project, such locally prevailing wages to be determined by the Secretary of Labor. Reorganization Plan No. 14 will empower the Secretary of Labor to prescribe rules for the administration and enforcement of labor standards in addition to such determinations of prevailing wages.

CONCLUSION

So far as the committee has been able to determine, there is no important objection to this reorganization plan. It should be reported, however, that the proposal was previously made in Reorganization Plan No. 2 of 1947, defeated by both the Senate and the House of Representatives. That plan consisted of three sections, the third designed to accomplish the same results as this present Reorganization Plan No. 14. Section 1 would have transferred the United States Employment Service permanently from the Social Security Board (Federal Security Agency) to the Department of Labor, in which it had been placed originally after creation by the Wagner-Peyser Act of 1933; and section 2 would have transferred the functions of the Administrator of the Wage and Hour Division of the Department of Labor to the Secretary of Labor.

The House Committee on Expenditures in the Executive Departments recommended disapproval of the plan and, with respect to section 3 thereof, stated that, while there appeared to be some justi-

fication for centering in one official the responsibility for coordinating the administration and enforcement of Federal labor-standards laws, it was felt that at that time it would be more appropriate to require careful consideration of the matter by appropriate congressional committees. The House had no more to say regarding section 3 and the significance of what it did say is not apparent from the record.

Reorganization Plan No. 2 of 1947 was considered by the Senate Committee on Labor and Public Welfare, which recommended against passage of the concurrent resolution to defeat the plan. In its report, the Senate committee stated, with regard to section 3, that coordination by the Secretary of Labor of the administration and enforcement of labor-standards provisions should make for more consistency therein. Thus it may be seen that, when the ends sought to be attained by this present Reorganization Plan No. 14 were previously before the Congress, the Senate Committee on Labor and Public Welfare was in favor thereof while the House Committee on Expenditures in the Executive Departments took an adverse viewpoint, although the exact nature of the objection is not apparent. Nevertheless, Reorganization Plan No. 2 of 1947 was defeated by both Houses of Congress. Obviously, however, that defeat sprang from objection to sections 1 and 2, and was not due to any important objection to section 3, with the purpose of which we are here concerned.

The committee is authoritatively informed that, although under the language of the plan it may well be possible to construe that, by it, the Secretary of Labor is given authority with respect to "white collar" employees, the Department takes the view that the plan is intended to convey to the Secretary of Labor authority as to "blue collar" workers only.

Reorganization Plan No. 14 of 1950 and the President's message with respect thereto are as follows:

[H. Doc. No. 518, 81st Cong., 2d sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING REORGANIZATION PLAN NO. 14 OF 1950, FOR THE PURPOSE OF COORDINATING THE ADMINISTRATION OF LABOR STANDARDS

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 14 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. For the purpose of coordinating the administration of labor standards under various statutes relating to Federal construction and public works or to construction with federally financed assistance or guaranties, the reorganization plan authorizes the Secretary of Labor to prescribe appropriate standards, regulations, and procedures with respect to these matters and to make such investigations concerning compliance with, and enforcement of, labor standards as he deems desirable. The purpose is to assure consistent and effective enforcement of such standards.

The plan is in general accord with the recommendations of the Commission on Organization of the Executive Branch of the Government. It constitutes a further step in rebuilding and strengthening the Department of Labor to make it the central agency of the Government for dealing with labor problems.

After investigation I have found and hereby declare that the reorganization contained in this plan is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

There are several laws regulating wages and hours of workers employed on Federal contracts for public works or construction. The "eight hour laws" limit the employment of laborers and mechanics on such projects to 8 hours per day and permit their employment in excess of that limit only upon condition that time and one-half the basic-wage rate is paid for the excess hours. The Davis-Bacon Act provides that the minimum rates of pay for laborers and mechanics on certain

Federal public-works contracts shall be those prevailing for the corresponding classes of workers in the locality as determined by the Secretary of Labor. The Copeland anti-kick-back law prohibits the exaction of rebates or kick-backs from workers employed on the construction of Federal public works or works financed by the Federal Government and authorizes the Secretary of Labor to make regulations for contractors engaged on such projects.

In addition to the above statutes, there are several acts which require the payment of prevailing-wage rates, as determined by the Secretary of Labor, to laborers and mechanics employed on construction financed in whole or in part by loans or grants from the Federal Government or by mortgages guaranteed by the Federal Government. These acts are: the National Housing Act, the Housing Act of 1949, the Federal Airport Act, and the Hospital Survey and Construction Act of 1946.

With the exception of the Department of Labor, the Federal agencies involved in the administration of the various acts are divided into two classes: (1) agencies which contract for Federal public works or construction; and (2) agencies which lend or grant Federal funds, or act as guarantors of mortgages, to aid in the construction of projects to be built by State or local public agencies or private individuals and groups. The methods of enforcing labor standards necessarily differ between these two groups of agencies.

The methods adopted by the various agencies for the enforcement of labor standards very widely in character and effectiveness. As a result, uniformity of enforcement is lacking and the degree of protection afforded workers varies from agency to agency.

In order to correct this situation, this plan authorizes the Secretary of Labor to coordinate the administration of legislation relating to wages and hours on federally financed or assisted projects by prescribing standards, regulations, and procedures to govern the enforcement activities of the various Federal agencies and by making such investigations as he deems desirable to assure consistent enforcement. The actual performance of enforcement activities, normally including the investigation of complaints of violations, will remain the duty of the respective agencies awarding the contracts or providing the Federal assistance.

Since the principal objective of the plan is more effective enforcement of labor standards, it is not probable that it will result in savings. But it will provide more uniform and more adequate protection for workers through the expenditures made for the enforcement of the existing legislation.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 14 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

LABOR STANDARDS ENFORCEMENT

In order to assure coordination of administration and consistency of enforcement of the labor standards provisions of each of the following Acts by the Federal agencies responsible for the administration thereof, the Secretary of Labor shall prescribe appropriate standards, regulations, and procedures, which shall be observed by these agencies, and cause to be made by the Department of Labor such investigations, with respect to compliance with and enforcement of such labor standards, as he deems desirable, namely: (a) The Act of March 3, 1931 (46 Stat. 1494, ch. 411), as amended; (b) the Act of June 13, 1934 (48 Stat. 948, ch. 482); (c) the Act of August 1, 1892 (27 Stat. 340, ch. 352), as amended; (d) the Act of June 19, 1912 (37 Stat. 137, ch. 174), as amended; (e) the Act of June 3, 1939 (53 Stat. 804, ch. 175), as amended; (f) the Act of August 13, 1946 (60 Stat. 1040, ch. 958); (g) the Act of May 13, 1946 (60 Stat. 170, ch. 251), as amended; and (h) the Act of July 15, 1949 (ch. 338, Public Law 171, Eighty-first Congress, first session).

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81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 520

REORGANIZATION PLAN NO. 15 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 15 OF 1950 TRANSFERRING THE FUNCTIONS OF THE GENERAL SERVICES ADMINISTRATION RELATING TO PUBLIC WORKS IN ALASKA AND IN THE VIRGIN ISLANDS TO THE DEPARTMENT OF THE INTERIOR

MARCH 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 15 of 1950, prepared in accordance with the Reorganization Act of 1949. The plan transfers the functions of the General Services Administration relating to public works in Alaska and in the Virgin Islands to the Department of the Interior. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 15 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The savings to be realized from the transfers provided for in the plan cannot be predicted in detail at this time. The small size and restricted character of the Virgin Islands public-works program will prevent large reductions in administrative expenditures. However, by placing the responsibility for the activity in the Department generally concerned with the government and welfare of the islands, the plan will lead to a closer integration of the public-works program with verified needs.

The Alaska public-works program is new and will continue to grow for some time. As a result the over-all costs of administration will increase under any organizational arrangements which may be established. The concentration of responsibility in the Department already

charged with the execution of related programs in Alaska and required by law to approve all projects constructed under the Alaska Public Works Act of 1949 should, however, simplify relationships and lead to more economical administration than would otherwise be possible.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 15 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

ALASKA AND VIRGIN ISLANDS PUBLIC WORKS

SECTION 1. *Transfer of functions.*—There are hereby transferred to the Secretary of the Interior all functions of the Administrator of General Services under the Alaska Public Works Act, approved August 24, 1949, and under the Act of December 20, 1944 (58 Stat. 827) entitled "An Act to assist in the internal development of the Virgin Islands by the undertaking of useful projects therein, and for other purposes," as amended, together with so much of any other function of the Administrator of General Services or of the General Services Administration as is incidental to or necessary for the carrying out of the provisions of such Acts.

SEC. 2. *Performance of transferred functions.*—The Secretary of the Interior may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of the Interior of any function transferred to such Secretary by the provisions of this reorganization plan.

SEC. 3. *Transfer of records, property, personnel, and funds.*—There are hereby transferred to the Department of the Interior, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, the records and property now being used or held in connection with such functions, the personnel employed in connection with such functions, and the unexpended balances of appropriations, allocations, and other funds available or to be made available for use in connection with such functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

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81st Congress, 2d Session | SENATE | Report No. 1547

REORGANIZATION PLAN NO. 15 OF 1950, TRANSFERRING THE FUNCTIONS OF THE GENERAL SERVICES ADMINISTRATION RELATING TO PUBLIC WORKS IN ALASKA AND IN THE VIRGIN ISLANDS TO THE DEPARTMENT OF THE INTERIOR

MAY 10 (legislative day, MARCH 29), 1950.—Ordered to be printed

Mr. McCLELLAN, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

The Committee on Expenditures in the Executive Departments, to whom was referred Reorganization Plan No. 15 of 1950, submitted to Congress by the President on March 13, 1950, pursuant to the Reorganization Act of 1949 (Public Law No. 109, 81st Cong.), having considered the same, report favorably thereon and recommend that the plan be permitted to become effective at the end of the statutory period contained in the Reorganization Act.

While the act does not specifically require the committee to file a report, it was felt desirable to do so in order to provide the Senate with adequate information concerning the provisions of the plan.

PROVISIONS AND EFFECT OF PLAN NO. 15 OF 1950

The President stated in his message transmitting this plan to Congress, under date of March 13, 1950, that—

> The plan transfers the functions of the General Services Administration relating to public works in Alaska and in the Virgin Islands to the Department of the Interior. * * *
>
> The savings to be realized from the transfers provided for in the plan cannot be predicted in detail at this time. The small size and restricted character of the Virgin Islands public-works program will prevent large reductions in administrative expenditures. However, by placing the responsibility for the activity in the Department generally concerned with the government and welfare of the islands, the plan will lead to a closer integration of the public-works program with verified needs.
>
> The Alaska public works program is new and will continue to grow for some time. As a result the over-all costs of administration will increase under any organizational arrangements which may be established. The concentration of responsibility in the Department already charged with the execution of related programs in Alaska and required by law to approve all projects constructed under the Alaska Public Works Act of 1949 should, however, simplify relationships and lead to more economical administration than would otherwise be possible.

Government sources have indicated that the following basic administrative improvements may be effectuated if the plan is permitted to become effective: [1]

(*a*) That local public works will be geared to the long-range interests of the inhabitants of Alaska and the Virgin Islands, and coordinated with the Department of the Interior's policies and programs for promoting the general welfare of the people of those possessions.

(*b*) The General Services Administration's primary mission is "central administrative services" whereas these programs authorize construction which may be considered as an adjunct to community development, and properly belong in the Department of the Interior.

(*c*) The Department of the Interior has a paramount interest in the affairs of Alaska and the Virgin Islands, and should, therefore, be responsible for these programs.

(*d*) The centralization of these functions in a single agency will reduce duplication of effort and facilitate administration. This will also make it possible to hold designated officials responsible for execution of the programs.

(*e*) The plan is comparable to, and in accord with, the theory underlying the transfer of the Alaska Roads Commission to the Department of the Interior (44 Stat. 446).

THE ALASKA PUBLIC-WORKS PROGRAM

The Alaska public-works program was authorized by Public Law No. 264, Eighty-first Congress, approved on August 24, 1949. The purpose of the plan is to foster a settlement program and increase the number of permanent residents of Alaska, to stimulate trade and develop resources, and to provide facilities for community life through a program of useful public works, including schools, hospitals, sewer and water systems, colleges, institutional and public buildings, incinerators, and other community facilities.

Under Public Law 264, any public body may apply for public-works construction. The application must be made to the Community Facilities Service of the General Services Administration. The application must be approved by the Governor of Alaska and concurred in by the Secretary of the Interior, after which the Community Facilities Service enters into a contract with the local body stipulating that the Community Facilities Service will build the facilities and, on completion of the project, that it will be turned over to the local body at not less than 25 percent, or more than 75 percent of the estimated cost.

The size of the Alaskan public-works program is limited by law to a ceiling of $70,000,000, and duration of the program shall continue until the $70,000,000 is obligated, or, in any event, is to terminate on June 30, 1955.

THE VIRGIN ISLANDS PUBLIC WORKS PROGRAM

The Virgin Islands public-works program was authorized by Public Law No. 510, Seventy-eighth Congress, approved on December 20, 1944. The act was designed to assist in the internal development of the islands, and authorized an appropriation of $10,028,420 for construction of about 29 projects specifically set forth in the act.

[1] The full text of Reorganization Plan No. 15 of 1950 is included in this report as appendix A.

The act provided further that an appropriation of $2,028,420 should be made in fiscal year 1945, and $2,000,000 each year thereafter during the next 4 years. To date, appropriations totaling $5,643,942 have been made to augment the program intended under the enabling legislation. The General Services Administration has, however, requested $1,300,000 in appropriations and $1,460,000 in contract authorizations in the budget for fiscal year 1951.

The construction of public works in the Virgin Islands is not a service activity. It entails the direct provision of Federal benefits and direct contacts with the officials of the governmental units of the islands. Since the mission of GSA is conceived to be the guidance or actual provision of common administrative services within the Federal Government, the activities administered under Public Law 510 are alien to the central mission of GSA.

The Virgin Islands public works involve a number of technical and economic problems which are not usually encountered in the continental United States. For this reason it is of vital importance that the design and construction of works be directed by persons who are aware of local needs and problems. It is advisable, therefore, that the direct supervision of the program be in the Virgin Islands and that the central surveillance be provided by an agency which is informed as to the general requirements of the islands and the local capacity to utilize and maintain the works which are constructed.

ADMINISTRATION OF THE PROGRAMS

Pursuant to Public Law No. 264, the General Services Administration is responsible for administering the Alaska public-works program. The administration of public works in the Virgin Islands was vested in the Federal Works Agency by Public Law No. 510. When that agency was abolished, under Public Law No. 152, Eighty-first Congress, its functions were also transferred to the General Services Administration. The Senate Public Works Committee has considered the question of jurisdiction over public works in Alaska and the Virgin Islands on three different occasions during the past 3 years. The long years of experience of capable technicians and the established organization available in the General Services Administration influenced the committee in making its recommendations that this agency should retain jurisdiction over these public-works programs.

STATUS OF THE PROGRAM

No public works have been constructed in Alaska under Public Law 264 because the building season has been closed since the approval of the act. Appropriations of $1,000,000, and $4,000,000 in contract authorization, were approved by Congress on October 28, 1949. The General Services Administration requested an appropriation of $12,000,000 for this program for fiscal year 1951, and contract authorizations in amount of $13,000,000. The Administration recently opened a district engineer's office in Juneau, to which has been assigned four employees who are authorized to supervise the local projects and to establish field offices in order that the program may be carried forward as soon as the weather permits.

Public-works construction in the Virgin Islands was initiated in 1944, pursuant to Public Law No. 510, which vested the responsibility for administration in the Federal Works Agency. On July 1, 1949, this Agency was abolished and its functions transferred to the General Services Administration by Public Law No. 152. The General Services Administration is responsible for the design and construction of the projects, but, on completion, the projects are turned over to the local authorities for use and administration. Some of the programs have been developed and prosecuted within the limits of available funds. Others have been retarded because the officials in charge failed to consider local needs, were misinformed regarding design of buildings and other public works for tropical areas, and failed to maintain adequate liaison with local officials. As a result some of these programs are behind schedule.

HOOVER COMMISSION RECOMMENDATIONS

The Hoover Commission made no specific recommendation relating to this plan. The Commission did recommend (No. 2, Department of the Interior) that the Department of the Interior be "reorganized along more functional and major purpose lines," and that community services (including public works) be transferred to the Department of the Interior, because of the "major purpose" aspect (recommendations Nos. 4 and 8, Department of the Interior).

The Commission supported these recommendations in the following language (report on Department of the Interior, p. 17):

(*a*) Regrouping of development of natural resources and construction, according to major purposes, to secure coordinated policies in these fields.

(*b*) Provision of a center for coordination of State and Federal action in these fields.

(*c*) Provision for the Congress of an over-all view of the major construction activities of the Government.

(*d*) Provision of a center for planning and action of Federal construction to be coordinated with the ebb and flow of employment.

HOOVER COMMISSION DISSENTS

Commissioners Acheson, Pollock, and Rowe dissented in a separate report (p. 54), in which they admitted that the Department of the Interior should be reorganized, but contended that—

> Finally, the addition of all Federal construction programs, as some members (of the Commission) suggest, even further dilutes the major purpose of a resources department. To combine in one agency works and resources emphasizes too largely the construction aspect. The purpose of the construction, which varies greatly from one agency to another, is lost, as it were, in this effort to build a department of many unrelated purposes.

These members of the Commission submitted the following alternate recommendations:

(*a*) Placing public building construction in the General Services Administration.

(*b*) Community services with health, education, and other related major purpose activities.

(*c*) Hospital-construction work in the agency concerned with Federal hospitals (the United Medical Administration).

CONCLUSION

The committee has carefully considered this plan from the standpoint of the Hoover Commission recommendations, the enabling legislation, organization of the executive branch of the Government and with a view of ascertaining what economies will be effected. The issues for and against the plan have been carefully analyzed and the committee believes that the Department which is responsible for long-range planning and the welfare of the inhabitants of these areas should have complete control over public works in Alaska and the Virgin Islands. The concentration of responsibility in the department already charged with the execution of related programs in Alaska and required by law to approve all projects constructed under the Alaska Public Works Act of 1949 should simplify relationships and lead to more economical administration than would otherwise be possible. For this and other compelling reasons it is believed that this plan is meritorious and should become effective.

APPENDIX A

Reorganization Plan No. 15 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

ALASKA AND VIRGIN ISLANDS PUBLIC WORKS

Section 1. *Transfer of functions.*—There are hereby transferred to the Secretary of the Interior all functions of the Administrator of General Services under the Alaska Public Works Act, approved August 24, 1949, and under the Act of December 20, 1944 (58 Stat. 827) entitled "An Act to assist in the internal development of the Virgin Islands by the undertaking of useful projects therein, and for other purposes," as amended, together with so much of any other function of the Administrator of General Services or of the General Services Administration as is incidental to or necessary for the carrying out of the provisions of such Acts.

Sec. 2. *Performance of transferred functions.*—The Secretary of the Interior may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of the Interior of any function transferred to such Secretary by the provisions of this reorganization plan.

Sec. 3. *Transfer of records, property, personnel, and funds.*—There are hereby transferred to the Department of the Interior, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, the records and property now being used or held in connection with such functions, the personnel employed in connection with such functions, and the unexpended balances of appropriations, allocations, and other funds available or to be made available for use in connection with such functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

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81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 521

REORGANIZATION PLAN NO. 16 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 16 OF 1950, TO TRANSFER TO THE FEDERAL SECURITY AGENCY THE FUNCTIONS OF THE GENERAL SERVICES ADMINISTRATION RELATING TO ASSISTANCE TO LOCAL SCHOOL DISTRICTS AND GRANTS AND LOANS FOR WATER-POLLUTION-CONTROL PROJECTS

MARCH 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 16 of 1950, prepared in accordance with the Reorganization Act of 1949. The plan transfers to the Federal Security Agency the functions of the General Services Administration relating to assistance to local school districts and grants and loans for water-pollution-control projects. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 16 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The transfer of the responsibility for making payments to local school districts whose operating deficits are due in part to Federal activities is unlikely to result in an immediate reduction in expenditures for the administration of the program. However, by placing the function in the agency of the Government best informed in matters of public-school administration and presently charged with the payment of other grants for educational purposes, the plan will provide additional assurance that the funds appropriated for assistance to overburdened school districts will be most advantageously expended.

The relative newness and expanding character of the water-pollution-control program prevents the itemization of the reductions in expenditures which will follow the consolidation of responsibility for this activity. It is expected that the elimination of overlapping and the simplification of relationships which will result from the transfer will make it possible to administer grants and loans more expeditiously and at lower costs per project than can be done under the present division of responsibility.

HARRY S. TRUMAN.

The WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 16 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

CERTAIN EDUCATION AND HEALTH FUNCTIONS

SECTION 1. *Transfer of functions.*—There are hereby transferred to the Federal Security Administrator all functions of the Administrator of General Services under the Act of September 10, 1949, entitled "An Act to provide assistance for local school agencies in providing educational opportunities for children on Federal reservations or in defense areas, and for other purposes," and under the Water Pollution Control Act, approved June 30, 1948, as amended, together with so much of any other function of the Administrator of General Services or of the General Services Administration as is incidental to or necessary for the carrying out of the provisions of such Acts.

SEC. 2. *Performance of transferred functions.*—The Federal Security Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Federal Security Agency of any function transferred to such Administrator by the provisions of this reorganization plan.

SEC. 3. *Transfer of records, property, personnel, and funds.*—There are hereby transferred to the Federal Security Agency, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, the records and property now being used or held in connection with such functions, the personnel employed in connection with such functions, and the unexpended balances of appropriations, allocations, and other funds available or to be made available for use in connection with such functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

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81st Congress, 2d Session | SENATE | Report No. 1548

REORGANIZATION PLAN NO. 16 OF 1950, TRANSFERRING THE FUNCTIONS OF THE GENERAL SERVICES ADMINISTRATION RELATING TO ASSISTANCE TO LOCAL SCHOOL DISTRICTS AND WATER POLLUTION CONTROL TO THE FEDERAL SECURITY AGENCY

MAY 10 (legislative day, MARCH 29), 1950.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

The Committee on Expenditures in the Executive Departments, to whom was referred Reorganization Plan No. 16 of 1950, submitted to Congress by the President on March 13, 1950, pursuant to the Reorganization Act of 1949 (Public Law 109, 81st Cong.), having considered the same, report favorably thereon and recommend that the plan be permitted to become effective at the end of the statutory period provided in the Reorganization Act.

While the act does not specifically require the committee to file a report, it was felt desirable to do so in order that the Senate may have adequate information concerning the provisions of the plan.

PROVISIONS AND EFFECT OF PLAN NO. 16 OF 1950

The purpose of Reorganization Plan No. 16 is to transfer all of the functions involved in providing Federal aid to local school districts, and grants and loans for water-pollution control from the General Services Administration to the Federal Security Agency. (The President's message and Reorganization Plan No. 16 are printed in full as appendix A of this report.)

FEDERAL AID TO SCHOOL DISTRICTS

Federal aid to overburdened school districts was originally authorized under title II of the Lanham Act, approved June 28, 1941 (55 Stat. 361). The provisions of this act have been extended each year during the past 4 years. The last extension was by Public Law 306, Eighty-first Congress, approved September 10, 1949. Under this act the General Services Administrator is authorized to make contributions to local school agencies located on Federal reservations or other federally owned property, to overburdened schools adjacent to defense

areas, and in those areas where acquisition of land by the Federal Government has reduced school revenues. The assistance provided under this act is limited to the amount of the actual deficit in a school agency's maintenance and operation budget during the school year.

At the present time a number of agencies are engaged in helping local school districts to overcome the financial burdens imposed by the withdrawal of taxable land for governmental purposes, or by sudden increases in child population caused by the establishment or reactivation of Federal installations. The programs of the agencies involve different standards and varying financial arrangements, with the result that there is no coordination between the agencies or programs which has caused confusion and waste in time, funds, and personnel.

An appropriation of $7,250,000 was made available in 1949 for aid to schools in defense areas and on Federal reservations, to be allocated by the Administrator of General Services. Practically all other Federal aid-to-education programs are administered by the Office of Education. By transferring these functions to the agency best informed on these matters will bring about improvement and better administration of the funds appropriated by Congress. Furthermore, it is understood that the former Administrator of Federal Works has recommended on several occasions that the administration of this program be transferred to the Office of Education (FSA) because that agency has the technical assistance to do this work and is responsible for administering the more important laws dealing with education.

WATER-POLLUTION CONTROL

The Federal water-pollution control activities are based chiefly on Public Law 845, Eightieth Congress, approved June 30, 1948. This act authorized governmental action of several types, and distributes the responsibility of the program between the Public Health Service of the Federal Security Agency and the Federal Works Agency. (The functions of FWA were recently absorbed by the General Services Administration.) Under this act the Public Health Service (FSA) is charged with the preparation and adoption of comprehensive pollution-control plans for interstate streams. These plans are developed in cooperation with other Federal agencies, with State and interstate water-pollution agencies and with the municipalities and industries affected.

A further function of the Public Health Service is that of initiating legal action to compel the abatement of water-pollution conditions declared to fall under the act's definition of public nuisance. In effectuating these responsibilities the Public Health Service is authorized to conduct joint investigations with the cooperating agencies; is authorized to encourage cooperative activities by the States, promote the enactment of uniform laws relating to water-pollution control, encourage compacts for the prevention and abatement of water pollution, disseminate information relating to water pollution, and make investigations into specific problems upon the request of any State or interstate agency.

On the other hand the Administrator of General Services Administration is authorized to make loans to States, municipalities, or interstate agencies for construction of sewage-treatment works. The loans cannot exceed $250,000 or 33⅓ percent of the estimated cost, whichever is lower. The plans must be approved by the Surgeon General

(PHS), the Administrator of General Services, and the State water-pollution agency.

HOOVER COMMISSION RECOMMENDATIONS

This plan is not specifically covered by any of the recommendations of the Hoover Commission, but is in accord with its determination that Federal-State relations be concentrated where feasible, within the Federal Security Agency, and that major purpose functions be grouped together in a single agency.

CONCLUSION

There is considerable merit and general agreement that the responsibility for administering Federal aid to education, whether it be direct financial aid or providing material aid, should be vested in the Office of Education.

It is understood that a number of agencies now provide assistance to local communities for education of children who are living on or adjacent to Government establishments. Notably among these are the Departments of Army, Navy, Air Force, Bureau of Reclamation, Atomic Energy Commission, General Services Administration, and the Bureau of Indian Affairs. This plan is designed to transfer such functions now reposed in the General Services Administration to the Office of Education. Additional legislation to transfer such responsibilities from the Department of Defense and the Bureau of Reclamation is now under consideration by the House Committee on Education and Labor. It is therefore believed that the theory underlying the Hoover Commission recommendations of grouping general-purpose functions under a single agency will reduce red tape, facilitate administration, and make possible better surveillance by the Congress.

On the other hand the functions involved in water-pollution control are presently administered jointly by the General Services Administration and the Public Health Service. The reason General Services Administration is concerned in this program stems from the fact that the Federal Works Agency originally was the central engineering and construction arm of the Government, except those specialized fields designated by law to the Bureau of Reclamation and the Corps of Engineers, and it was originally believed that the engineering facilities of the Federal Works Agency should be utilized in consideration of water-pollution-control projects. Inasmuch as the Federal Works Agency has been abolished and its functions transferred to a central administrative services agency (GSA) and that the primary responsibility has always been and still is in the Public Health Service it is believed that considerable improvement and some savings can be effected by transferring all of the functions to the agency (Public Health Service) already responsible for the predominant part of water-pollution control.

The committee is, therefore, in accord with the views of the President, that the consolidation of responsibility for the administration of this program will eliminate overlapping functions and bring about more efficiency and economy of operation than is now possible under the existing division of responsibility.

The President's message and Reorganization Plan No. 16 of 1950 follow:

Appendix A

[H. Doc. No. 521, 81st Cong., 2d sess.]

Message From the President of the United States Transmitting Reorganization Plan No. 16 of 1950, To Transfer to the Federal Security Agency the Functions of the General Services Administration Relating to Assistance to Local School Districts and Grants and Loans for Water-Pollution-Control Projects

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 16 of 1950, prepared in accordance with the Reorganization Act of 1949. The plan transfers to the Federal Security Agency the functions of the General Services Administration relating to assistance to local school districts and grants and loans for water-pollution-control projects. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 16 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The transfer of the responsibility for making payments to local school districts whose operating deficits are due in part to Federal activities is unlikely to result in an immediate reduction in expenditures for the administration of the program. However, by placing the function in the agency of the Government best informed in matters of public-school administration and presently charged with the payment of other grants for educational purposes, the plan will provide additional assurance that the funds appropriated for assistance to overburdened school districts will be most advantageously expended.

The relative newness and expanding character of the water-pollution-control program prevents the itemization of the reductions in expenditures which will follow the consolidation of responsibility for this activity. It is expected that the elimination of overlapping and the simplification of relationships which will result from the transfer will make it possible to administer grants and loans more expeditiously and at lower costs per project than can be done under the present division of responsibility.

Harry S. Truman.

The White House, *March 13, 1950.*

Reorganization Plan No. 16 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

CERTAIN EDUCATION AND HEALTH FUNCTIONS

Section 1. *Transfer of functions.*—There are hereby transferred to the Federal Security Administrator all functions of the Administrator of General Services under the Act of September 10, 1949, entitled "An Act to provide assistance for local school agencies in providing educational opportunities for children on Federal reservations or in defense areas, and for other purposes," and under the Water Pollution Control Act, approved June 30, 1948, as amended, together with so much of any other function of the Administrator of General Services or of the General Services Administration as is incidental to or necessary for the carrying out of the provisions of such Acts.

Sec. 2. *Performance of transferred functions.*—The Federal Security Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Federal Security Agency of any function transferred to such Administrator by the provisions of this reorganization plan.

Sec. 3. *Transfer of records, property, personnel, and funds.*—There are hereby transferred to the Federal Security Agency, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, the records and property now being used or held in connection with such functions, the personnel employed in connection with such functions, and the unexpended balances of appropriations, allocations, and other funds available or to be made available for use in connection with such functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

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81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 522

REORGANIZATION PLAN No. 17 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN No. 17 OF 1950, TO TRANSFER THE FUNCTIONS OF THE GENERAL SERVICES ADMINISTRATION RELATING TO THE ADVANCE PLANNING OF NON-FEDERAL PUBLIC WORKS AND THE MANAGEMENT AND DISPOSAL OF CERTAIN WAR PUBLIC WORKS TO THE HOUSING AND HOME FINANCE AGENCY

March 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 17 of 1950, prepared in accordance with the Reorganization Act of 1949. The plan transfers the functions of the General Services Administration relating to the advance planning of non-Federal public works and the management and disposal of certain war public works to the Housing and Home Finance Agency. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 17 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The first of the transfers provided for by this plan will result in the more economical administration of those activities of the Federal Government which are concerned with the over-all planning and development of communities. The concentration of responsibility in a single agency will make it possible to so integrate administration as to avoid duplication of technical staffs and to simplify relationships with State and local agencies. Moreover, by reducing the likelihood that the two programs involved will be administered at cross-purposes or in conflict with each other, it can be expected that the money expended will achieve greater benefits than would be likely

under the present distribution of responsibility. It is not, however, possible to itemize the reduction in expenditures which will result, chiefly because both programs are of recent origin and are still under going expansion.

The transfer of the war public works functions will lead to modest savings by consolidating the responsibility for the management and disposal of all properties built or acquired under the Lanham Act of 1940, as amended, in the Agency which already has the greater part of the total job. The fact that it will become possible to manage and dispose of public facilities serving emergency housing developments without the interagency negotiation which is now necessary will lead to economies, although they cannot be itemized or predicted with exactness.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 17 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

PUBLIC WORKS ADVANCE PLANNING AND OTHER FUNCTIONS

SECTION 1. *Transfer of functions.*—Except as otherwise provided in section 2 of this reorganization plan, there are hereby transferred to the Housing and Home Finance Administrator all functions of the Administrator of General Services under,

(1) the Act of October 13, 1949, entitled "An Act to provide for the advance planning of non-Federal public works,"

(2) title V of the War Mobilization and Reconversion Act of 1944, 58 Stat. 791, as amended, and

(3) title II of the Act of October 14, 1940, entitled "An Act to expedite the provision of housing in connection with national defense, and for other purposes," as amended,

together with so much of any other function of the Administrator of General Services or of the General Services Administration as is incidental to or necessary for the carrying out of the foregoing provisions of law.

SEC. 2. *Functions excepted from transfer.*—There are hereby excluded from the transfer effected by the provisions of section 1 of this reorganization plan functions with respect to the holding, management, and disposition of securities received prior to the effective date of this reorganization plan by the General Services Administration or its predecessor agency by reason of the disposal of property constructed or otherwise acquired under the provisions of said title II, and functions with respect to litigation, and the liquidation of claims, arising out of the acquisition of land or the construction of facilities under the provisions of said title II.

SEC. 3. *Performance of transferred functions.*—The Housing and Home Finance Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Housing

and Home Finance Agency of any function transferred to such Administrator by the provisions of this reorganization plan.

SEC. 4. *Transfer of records, property, personnel, and funds.*—There are hereby transferred to the Housing and Home Finance Agency, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, the records and property now being used or held in connection with such functions, the personnel employed in connection with such functions, and the unexpended balances of appropriations, allocations, and other funds available or to be made available for use in connection with such functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

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81ST CONGRESS
2D SESSION

S. RES. 271

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, MARCH 29), 1950

Mr. AIKEN submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 17 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 271

RESOLUTION

Disapproving Reorganization Plan Numbered 17 of 1950.

By Mr. AIKEN

MAY 10 (legislative day, MARCH 29), 1950

Referred to the Committee on Expenditures in the Executive Departments

Calendar No. 1687

81ST CONGRESS, 2d Session | SENATE | REPORT No. 1676

REORGANIZATION PLAN NO. 17 OF 1950, PROVIDING FOR TRANSFER OF ADVANCE PLANNING OF NON-FEDERAL PUBLIC WORKS AND THE MANAGEMENT AND DISPOSAL OF CERTAIN WAR PUBLIC WORKS

MAY 18 (legislative day, MARCH 29), 1950.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany S. Res. 271]

The Committee on Expenditures in the Executive Departments, to whom was referred Senate Resolution 271, expressing disapproval of Reorganization Plan No. 17 of 1950, report the resolution without recommendation. The effect of the adoption of the resolution will be to prevent Reorganization Plan No. 17 from becoming effective.

PURPOSE

The purpose of this plan is to transfer from the Administrator of General Services, General Services Administration, to the Housing and Home Finance Administrator, Housing and Home Finance Agency, functions relating to advance planning of non-Federal public works and functions relating to management and disposition of certain war public works.

Also involved in the transfer are such other substantive functions as may be necessary to the proper performance of the primary functions enumerated in the preceding paragraph, together with incidental records, property, funds, and personnel. The plan provides that the Housing and Home Finance Administrator may delegate these new functions to whatever agency or employee of the Housing and Home Finance Agency he may consider advisable.

CONFORMANCE WITH RECOMMENDATIONS OF THE HOOVER COMMISSION

There is no recommendation of the Hoover Commission directed specifically to the transfers proposed by this reorganization plan. However, argument in favor of the plan can be made on the premise of grouping like functions in a single agency so far as practicable.

ACTS AFFECTED

The several enactments of Congress controlling the functions proposed to be transferred by this plan are as follows:

Public Law 352, Eighty-first Congress, approved October 13, 1949.—This law provides for advances of Federal funds to States and other non-Federal public agencies for the purpose of financing the development of plans with a view toward establishing a reservoir of public works, exclusive of housing. The intent of the legislation is to provide a source of useful employment in the event of an economic recession with resultant unemployment. This law is a continuance of the enactment next identified.

Title V, War Mobilization and Reconversion Act of 1944 (Public Law 458, 78th Cong., October 3, 1944, 58 Stat. 785).—This legislation is almost identical with that set out in the preceding paragraph. Authority under this law expired on June 30, 1947, hence its continuation by Public Law 352, above.

Title II, Public Law 137, Seventy-seventh Congress, June 28, 1941, amending Public Law 849, Seventy-sixth Congress, October 12, 1940 (55 Stat. 361 and 54 Stat. 1125, respectively).—This legislation, known as the Lanham Act, provided for the construction of certain facilities, such as water, sewage, and sanitary facilities; hospitals; and schools, where found to be necessary as a result of Federal activities as, for example, where an influx of workers pursuant to establishment of war industry created a severe shortage of living accommodations and necessary appurtenances.

In each of the enactments affected by the plan and identified above, authority for the administration of the several programs was delegated by the Congress to the Administrator of General Services, directly, in the case of Public Law 352, and, in the case of the other enactments, through the passage of the Federal Property and Administrative Services Act of 1949 (Public Law 152, 81st Cong., June 30, 1949), which created the General Services Administration and incorporated therein the former Federal Works Agency which, with respect to the second and third enactments enumerated above, can be said to have been the predecessor of the General Services Administration. Thus, in considering the three enactments listed above and the Federal Property and Administrative Services Act of 1949, the Congress on those four separate occasions had opportunity to review the administration of the functions involved in this reorganization plan and on each occasion took action leading to their present location. The Federal Property and Administrative Services Act of 1949 became law less than 1 year ago, yet now the Senate is presented with a reorganization plan which is diametrically contrary to the action of Congress at that time, which specifically excluded housing in establishing the advance planning program.

The advance planning function with respect to non-Federal public works is entirely a liquidating operation under the War Mobilization and Reconversion Act of 1944 and, under the presently effective Public Law 352, the authority to extend financial aid expires on October 13, 1951. Under title II of the Lanham Act, operations are likewise of a liquidating nature, there now remaining to be done only the disposal of federally owned facilities and the management of those facilities the disposal of which has not yet been made.

TESTIMONY FOR AND AGAINST PLAN NO. 17

The committee held hearings on Senate Resolution 271 on Tuesday, May 16, 1950, at which testimony was received from four witnesses who favored the plan and testified in opposition to the resolution of disapproval. These included Senator John J. Sparkman, of Alabama; Charles B. Stauffacher, Assistant Director, Bureau of the Budget; Jess Larson, Administrator, General Services Administration; and Pere F. Seward, Commissioner, Community Facilities Service. In addition, a statement was submitted to the committee in support of the plan by Senator Burnet R. Maybank, of South Carolina, chairman of the Committee on Banking and Currency.

Witnesses favoring the adoption of the resolution of disapproval included Senator George D. Aiken, sponsor of the resolution of disapproval, and Paul H. Robbins, executive director, National Society of Professional Engineers. In addition, Senator Dennis Chavez, chairman of the Committee on Public Works, submitted a letter to the committee in opposition to the plan.

The proponents of the resolution of disapproval presented arguments to the effect that the functions proposed to be transferred should remain within the General Services Administration. Opposition to the plan was based on the premise that it is manifestly uneconomical, inefficient, and demoralizing to lift programs successfully functioning for a number of years from the constituent agency in which they have been operating since the inception of the programs and place them in an entirely new environment for the short period of time yet remaining before their liquidation. If there is now reason so compelling as to cause the President of the United States to devise this reorganization plan and cause the Congress of the United States to devote time to its consideration, at least some inkling thereof should have existed as recently as the summer of 1949 when, with the enactment of the Federal Property and Administrative Services Act of 1949, the two major activities covered by the transfer were placed within the General Services Administration.

The proponents of the resolution of disapproval also contended that (1) the activities proposed to be transferred under this plan have been and are being discharged by the Community Facilities Service of the GSA in a satisfactory and competent manner, and (2) that the staff of the Community Facilities Service since its incorporation in the GSA has been burdened with a sense of insecurity and uncertainty arising from the temporary nature of the programs administered. Proponents charged the latter to be the real basis for the proposed transfer of these functions, in order to make the activities and the jobs of the personnel permanent within the structure of the Housing and Home Finance Agency, itself considered by Congress to be a temporary agency.

The proponents concluded that the proposal was primarily designed, not to promote greater efficiency and economy, but to create a permanent agency in opposition to the will of Congress and to provide continuous employment for personnel of the Community Facilities Service. They maintained that there should be less expensive ways in which to promote the morale of personnel in the Federal Government and that no reorganization plan should be utilized for such purposes.

Witnesses appearing in opposition to the resolution maintained that all functions transferred under the plan are closely related to the present activities of the Housing and Home Finance Agency and that the consolidation of such functions would be in the interest of economy and efficiency.

Senator Sparkman pointed out that the program of the Housing and Home Finance Agency, relating to slum clearance and community development and redevelopment, includes the development of large areas involving parks, recreation facilities, community buildings, school buildings, and other activities definitely vested within the authority of the Housing and Home Finance Agency. It was his contention that all of the operations of the Community Facilities Service with respect to the advance planning program are essentially similar to the programs authorized by substantive legislation to be administered by the Housing and Home Finance Agency, and that the proposed transfer under this plan would implement that program and bring about increased efficiency and effect substantial economies. He also maintained that the advance planning program is not related to the major purposes of the General Services Administration, and that the functions proposed to be transferred under this plan are in closer relationship to the activities of the Housing and Home Finance Agency.

It was the view of the General Services Administrator that the functions transferred under this plan were originally a part of the activities of the Federal Works Agency and that the Congress, in establishing the General Services Administration, established that agency as a service organization. It followed, he argued, that the Congress in enacting Public Law 152 of the Eighty-first Congress, creating the GSA, indicated that the functions of the Bureau of Community Facilities were not related to property management, supply service, or records management, the primary functions of GSA. He, therefore, advocated that the advance planning functions of GSA be transferred to the Housing and Home Finance Agency, as proposed under plan No. 17, so that these activities could be correlated with other functions now performed by that agency.

APPENDIX A

[H. Doc. No. 522, 81st Cong. 1st sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING REORGANIZATION PLAN NO. 17 OF 1950, TO TRANSFER THE FUNCTIONS OF THE GENERAL SERVICES ADMINISTRATION RELATING TO THE ADVANCE PLANNING OF NON-FEDERAL PUBLIC WORKS AND THE MANAGEMENT AND DISPOSAL OF CERTAIN WAR PUBLIC WORKS TO THE HOUSING AND HOME FINANCE AGENCY

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 17 of 1950, prepared in accordance with the Reorganization Act of 1949. The plan transfers the functions of the General Services Administration relating to the advance planning of non-Federal public works and the management and disposal of certain war public works to the Housing and Home Finance Agency. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 17 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The first of the transfers provided for by this plan will result in the more economical administration of those activities of the Federal Government which are con-

cerned with the over-all planning and development of communities. The concentration of responsibility in a single agency will make it possible to so integrate administration as to avoid duplication of technical staffs and to simplify relationships with State and local agencies. Moreover, by reducing the likelihood that the two programs involved will be administered at cross-purposes or in conflict with each other, it can be expected that the money expended will achieve greater benefits than would be likely under the present distribution of responsibility. It is not, however, possible to itemize the reduction in expenditures which will result, chiefly because both programs are of recent origin and are still undergoing expansion.

The transfer of the war public works functions will lead to modest savings by consolidating the responsibility for the management and disposal of all properties built or acquired under the Lanham Act of 1940, as amended, in the Agency which already has the greater part of the total job. The fact that it will become possible to manage and dispose of public facilities serving emergency housing developments without the interagency negotiation which is now necessary will lead to economies, although they cannot be itemized or predicted with exactness.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 17 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949.

PUBLIC WORKS ADVANCE PLANNING AND OTHER FUNCTIONS

SECTION 1. *Transfer of functions.*—Except as otherwise provided in section 2 of this reorganization plan, there are hereby transferred to the Housing and Home Finance Administrator all functions of the Administrator of General Services under,

(1) the Act of October 13, 1949, entitled "An Act to provide for the advance planning of non-Federal public works,"

(2) title V of the War Mobilization and Reconversion Act of 1944, 58 Stat. 791, as amended, and

(3) title II of the Act of October 14, 1940, entitled "An Act to expedite the provision of housing in connection with national defense, and for other purposes," as amended,

together with so much of any other function of the Administrator of General Services or of the General Services Administration as is incidental to or necessary for the carrying out of the foregoing provisions of law.

SEC. 2. *Functions excepted from transfer.*—There are hereby excluded from the transfer effected by the provisions of section 1 of this reorganization plan functions with respect to the holding, management, and disposition of securities received prior to the effective date of this reorganization plan by the General Services Administration or its predecessor agency by reason of the disposal of property constructed or otherwise acquired under the provisions of said title II, and functions with respect to litigation, and the liquidation of claims, arising out of the acquisition of land or the construction of facilities under the provisions of said title II.

SEC. 3. *Performance of transferred functions.*—The Housing and Home Finance Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Housing and Home Finance Agency of any function transferred to such Administrator by the provisions of this reorganization plan.

SEC. 4. *Transfer of records, property, personnel, and funds.*—There are hereby transferred to the Housing and Home Finance Agency, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, the records and property now being used or held in connection with such functions, the personnel employed in connection with such functions, and the unexpended balances of appropriations, allocations, and other funds available or to be made available for use in connection with such functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

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Calendar No. 1687

81ST CONGRESS
2D SESSION

S. RES. 271

[Report No. 1676]

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, MARCH 29), 1950

Mr. AIKEN submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 18 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, without recommendation

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 17 of 1950 transmitted to Congress by the President on March 13, 1950.

Calendar No. 1687

81st CONGRESS
2d SESSION

S. RES. 271

[Report No. 1676]

RESOLUTION

Disapproving Reorganization Plan Numbered 17 of 1950.

By Mr. AIKEN

MAY 10 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 18 (legislative day, MARCH 29), 1950
Reported without recommendation

on Senate Resolution 259, which is under consideration at this time.

Mr. WILEY. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Hendrickson	Magnuson
Benton	Hill	Malone
Bricker	Hoey	Martin
Bridges	Holland	Millikin
Butler	Humphrey	Mundt
Byrd	Hunt	Neely
Cain	Ives	O'Conor
Capehart	Jenner	O'Mahoney
Chapman	Johnson, Colo.	Robertson
Connally	Johnson, Tex.	Russell
Cordon	Kem	Saltonstall
Darby	Kilgore	Schoeppel
Donnell	Knowland	Smith, Maine
Douglas	Langer	Smith, N. J.
Dworshak	Leahy	Sparkman
Eastland	Lehman	Stennis
Ecton	Long	Taft
Ellender	Lucas	Taylor
Ferguson	McCarran	Thye
Flanders	McCarthy	Watkins
Fulbright	McClellan	Wherry
George	McFarland	Wiley
Gillette	McKellar	Williams
Hayden	McMahon	Withers

The VICE PRESIDENT. A quorum is present. The question is on the adoption or rejection of Senate Resolution 259, disapproving Reorganization Plan No. 5.

Mr. WILEY. I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. Those who favor the resolution of disapproval will vote "yea" as their names are called. Those who oppose it will vote "nay." The Secretary will call the roll.

The legislative clerk called the roll:

Mr. LUCAS. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Oklahoma [Mr. KERR], the Senator from Florida [Mr. PEPPER], the Senator from Pennsylvania [Mr. MYERS], and the Senator from Maryland [Mr. TYDINGS] are absent on public business.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from South Carolina [Mr. JOHNSTON], and the Senator from Oklahom [Mr. THOMAS] are absent by leave of the Senate.

The Senator from California [Mr. DOWNEY] and the Senator from North Carolina [Mr. GRAHAM] are absent because of illness.

The Senator from Delaware [Mr. FREAR] is absent by leave of the Senate on official business.

The Senator from Rhode Island [Mr. GREEN] is absent by leave of the Senate on official business as a member of a subcommittee of the Committee on Foreign Relations investigating the security program of the Department of State and its foreign establishments.

The Senator from South Carolina [Mr. MAYBANK] is absent by leave of the Senate because of a death in his family.

The Senator from Tennessee [Mr. KEFAUVER] and the Senator from Utah [Mr. THOMAS] are detained on official business.

The Senator from Montana [Mr. MURRAY] is absent because of a death in his family.

The Senator from Maryland [Mr. TYDINGS] is paired on this vote with the Senator from South Carolina [Mr. MAYBANK]. If present and voting, the Senator from Maryland would vote "yea", and the Senator from South Carolina would vote "nay".

If present and voting, the Senator from New Mexico [Mr. ANDERSON], the Senator from Rhode Island [Mr. GREEN], the Senator from Tennessee [Mr. KEFAUVER], the Senator from Pennsylvania [Mr. MYERS], and the Senator from Utah [Mr. THOMAS] would vote "nay".

Mr. SALTONSTALL. I announce that the Senator from South Dakota [Mr. GURNEY], the Senator from Michigan [Mr. VANDENBERG], and the Senator from North Dakota [Mr. YOUNG], are absent by leave of the Senate.

The Senator from Iowa [Mr. HICKENLOOPER] who is absent by leave of the Senate is paired with the Senator from Oregon [Mr. MORSE] who is also absent by leave of the Senate. If present and voting the Senator from Iowa would vote "yea" and the Senator from Oregon would vote "nay".

The Senator from Massachusetts [Mr. LODGE] is absent by leave of the Senate on official committee business.

The Senator from New Hampshire [Mr. TOBEY] is absent on official business. If present and voting the Senator from New Hampshire would vote "nay".

The Senator from Maine [Mr. BREWSTER] is detained on official business.

The yeas and nays resulted—yeas 29, nays 43, as follows:

YEAS—29

Bricker	Fulbright	Millikin
Bridges	George	Mundt
Butler	Hendrickson	Russell
Cain	Ives	Saltonstall
Capehart	Jenner	Schoeppel
Cordon	Kem	Smith, N. J.
Donnell	McCarran	Taft
Ecton	McKellar	Wherry
Ferguson	Malone	Wiley
Flanders	Martin	

NAYS—43

Aiken	Humphrey	Magnuson
Benton	Hunt	Neely
Byrd	Johnson, Colo.	O'Conor
Chapman	Johnson, Tex.	O'Mahoney
Connally	Kilgore	Robertson
Darby	Knowland	Smith, Maine
Douglas	Langer	Sparkman
Dworshak	Leahy	Stennis
Eastland	Lehman	Taylor
Ellender	Long	Thye
Gillette	Lucas	Watkins
Hayden	McCarthy	Williams
Hill	McClellan	Withers
Hoey	McFarland	
Holland	McMahon	

NOT VOTING—24

Anderson	Hickenlooper	Myers
Brewster	Johnston, S. C.	Pepper
Chavez	Kefauver	Thomas, Okla.
Downey	Kerr	Thomas, Utah
Frear	Lodge	Tobey
Graham	Maybank	Tydings
Green	Morse	Vandenberg
Gurney	Murray	Young

The PRESIDING OFFICER. On this question the yeas are 29, the nays 43. The resolution has not received the 49 votes necessary for adoption, and therefore fails.

MEETING OF COMMITTEE DURING SENATE SESSION

On request of Mr. LEHMAN, and by unanimous consent, a subcommittee of the Committee on Labor and Public Welfare was authorized to meet this afternoon, beginning at 1:30 p. m., during the session of the Senate.

REORGANIZATION PLAN NO. 17 OF 1950

The PRESIDING OFFICER. The next matter before the Senate is Senate Resolution 271, which the clerk will read.

The Chief Clerk read the resolution (S. Res. 271) as follows:

Resolved, That the Senate does not favor the Reorganization Plan No. 17 of 1950 transmitted to Congress by the President on March 13, 1950.

The PRESIDING OFFICER. On this resolution 1 hour of debate is allowed, one-half the time to be controlled by the Senator from Vermont [Mr. AIKEN], the other half to be controlled by the Senator from Maryland [Mr. O'CONOR].

Mr. AIKEN. Mr. President, I yield myself such time as I may require, which will not be very long.

The President has now submitted 25 reorganization plans to this session of the Congress. The Senate has killed 5 of them to date, and it looks as if 17 or 18 at least out of the 25 will be approved and become part of the general reform of the executive branch of our Government.

As to the plans which have been disapproved by the Senate, I do not believe the responsibility for the disapproval can all be laid upon the Senate, nor can it all be laid upon the executive branch of the Government. The responsibility, in my opinion, may well be divided.

However, it never was intended that the Congress should feel bound to approve any and every reorganization plan which the President might see fit to send to the Congress for approval. Nor is it to be expected that the President can submit an unlimited number of reorganization plans without making a mistake and having some of them wrong, and sending up some which very probably should be disapproved.

The plan under consideration now, Mr. President, provides for the transfer of two temporary programs of Government from the General Services Administration to the Housing and Home Finance Agency.

These two temporary functions which are to be transferred are, first, the disposal of the community facilities, such as lights, waterworks, sewers, and so forth, which were constructed as part of the war program, and the other function to be transferred from General Services to the Housing and Home Finance Agency is the Community Facilities Administration which has to deal with the advance planning of public works in communities, other than housing.

Last October the Congress extended, or renewed, rather, the life of this community planning and the advance programing for a period of 2 years. That work, as now authorized, expires on the 13th of October of next year. Therefore it has a little more than a year to run.

As to the disposal of the community facilities which were constructed as part of the war program, out of some 1,100 or 1,200 of these community facilities which were constructed, more than 900 of them have already been disposed of. I will say that so far as I can learn there has been no criticism whatever with respect to the handling of either of these programs in the General Services Ad-

ministration. Certainly the disposal of the surplus facilities in these various communities has been carried forward very efficiently along with the disposal of other surplus property which we found on our hands as a result of the war.

In my opinion the community facilities program for the advance planning has also been well handled. There are 388 employees in this work, and they have also been associated in other work in the General Services Administration as well as that pertaining to the facilities of the community planning.

The question is this: If this work has been done so well under the General Services Administration, why do we now receive a reorganization plan to transfer it from the agency where it has been so well handled to another agency where, unquestionably, it might be well handled also? Why is the transfer proposed at the present time? I do not question the ability of the employees of the Community Facilities Administration. I think they are undoubtedly capable persons. But why transfer these two programs at a time when they are both due to expire within the not-distant future? The answer to that question, Mr. President, will be found in a memorandum of the Bureau of the Budget under date of February 9, 1950, and rather than undertake to explain the reason for this transfer of the two temporary programs from General Services Administration to the Housing and Home Finance Agency, I wish to read a couple of paragraphs from the memorandum of the Bureau of the Budget dated February 9, 1950, as follows:

It should also be pointed out that the advance planning program is at present a temporary activity. Public Law 352 provides that on October 13, 1951, the authority to approve applications for advances will expire. The retention of the activity in GSA means that should the program not be renewed, the staff of the Community Facilities Service will have no place to go. The result will be an exacerbation—

I should like to know what the word means, but it is in the memorandum. It is evidently a new Government word. I continue to read—

of that sense of isolation and insecurity which the lack of identification with the central mission of GSA has already produced. Since there will be little opportunity to find other employment in GSA at the conclusion of the program, the staff of the Community Facilities Service will have little choice but to continue to seek and accept other more permanent assignments in or out of the Government. Thus, one of the major objectives of the transfer—the termination of the chronic uncertainty which has haunted CFS staff—will fail of realization of the present organizational arrangements are preserved.

It must also be expected that as long as the Community Facilities Service continues to exist as a part of GSA it will be driven to agitate for new public works or engineering assignments as a means of self-preservation. One of the gains to be derived from the liquidation of CFS will be the transfer of the personnel who have been working so hard to get new construction programs for FWA and GSA to agencies where they can apply their skills in behalf of a continuing and tangible major purpose. Failure to transfer advance planning functions will assure the continued existence of a focal point of agitation for the centralization of public-works activities.

Mr. CAIN. Mr. President, will the Senator yield for a question?

Mr. AIKEN. I yield for a short one.

Mr. CAIN. Will the Senator from Vermont please spell the word, the meaning of which he appeared to be uncertain about, in order that I may look it up in Webster's Dictionary?

Mr. AIKEN. The word is spelled: "e-x-a-c-e-r-b-a-t-i-o-n."

Mr. CAIN. "E-x-a——

Mr. AIKEN. "—c-e-r-b-a-t-i-o-n."

This excerpt from the memorandum of the Bureau of the Budget shows clearly that the purpose of the reorganization plan is to put the 388 employees of the Community Facilities Service under another branch of the Government, where they will be assured of continuance of their employment by the Government. I do not think that that reasoning alone is adequate for approving such a plan as this. Neither did the Director of the General Services Administration, because when he evidently was advised that such a reorganization plan was contemplated, he wrote a very vigorous letter of protest to the Hon. Frank Pace, Jr., Director of the Bureau of the Budget, under date of March 7, 1950. I read briefly from Mr. Larson's letter, which expressed his opinion as to the desirability of transferring these two temporary programs from the General Services Administration to the Housing and Home Finance Agency. I read from Mr. Larson's letter:

The transfers of the five functions under discussion—

There were three functions in other reorganization plans which were of lesser importance; only two in this plan. I continue to read:

The transfers of the five functions under discussion not only will effect no economies to the Government but, on the other hand, are very likely to produce added expense and to result in lack of coordination in governmental administration of the activities. The Community Facilities Service is a small organization in point of personnel, having as of February 1, 1950, only 388 employees, but it is a compact, well-integrated and thoroughly trained element of the General Services Administration, and the only organization in the Federal structure of which I know that is fully qualified to administer programs for the planning, construction, and financing of all types of State and local public works. Assignments of work under these five programs are distributed throughout the present personnel of the Community Facilities Service and of this administration, for the most part without exclusive allocation of employees to particular programs.

Since many of our employees who work on the five programs are also engaged in other activities of this administration—

I might interpolate that the employees of the Community Facilities Service also handle the disaster programs under which surplus and unused Government equipment and material is made available to disaster areas. I return to the letter—

transfer of such employees would impair the effective operation of the other programs, and would require additional personnel to be obtained by this administration. On the other hand, retention of the employees in their present positions would mean that the department or agency to which the functions were transferred would have to hire new employees and train them for performance of the transferred functions. It seems manifest that the adoption of either alternative would lead to increase in over-all expense to the Government.

In addition to the economies to be preserved and effected by the retention of the Alaska, Virgin Islands, water-pollution control, advance planning, and war public works functions in this administration, there is the further and more important point that the transfers would detract from efficiency in governmental operations.

There we have the opinion of the man who has been responsible for the work, that it would cost more, require more help, and detract from efficiency of Government operation.

Mr. President, I read the last paragraph of Mr. Larson's letter to the Director of the Bureau of the Budget:

The proposals made by the reorganization plans of 1950 for scattering of five integrated functions of the General Services Administration among three separate departments and agencies are, as this Administration views them, not only in direct conflict with recent statutory mandates, above noted, but would represent a step backward in the constant march to improve the administration and operations of the Government. A continuation of the present pattern of the General Services Administration will, we are confident, provide the Federal Government with the most efficient administration at the least cost of the functions heretofore assigned to that Administration.

So, Mr. President, I have tried to give the Senate the reasons for submitting this reorganization plan, the reasons which were very pointedly set forth by the Director of the General Services Administration, showing why these temporary programs of the Government should not be transferred.

I wish to conclude by saying that if we approve this plan, there will be no more efficiency in the Government. I do not say there will be less, but there will be no more.

There will be no more direct line of authority from the Community Facilities Service to the President than there is at the present time, but more personnel will be needed. In fact, the Director of the General Services Administration stated that if the 10 lawyers now connected with Community Facilities Service were transferred to the Housing and Home Finance Agency, although he would not have to hire 10 more lawyers, yet he would have to retain within his own organization 10 attorneys whom otherwise he would be able to let go. So the result would be the hiring of 10 additional lawyers, at an estimated cost of $150,000 a year.

Mr. President, I do not question the right of the President to send us this reorganization plan. I do not question his right to transfer these two temporary functions from one agency, where they have been successfully administered, to the Housing and Home Finance Agency, if he can obtain congressional approval to do so.

However, I say that when the entire objective of the Hoover Commission

recommendations is to promote efficiency and economy in Government, we should not begin by approving a plan which will contravene that objective even before the reorganization is brought about. That is what we have in this plan, which simply will provide permanent jobs for 388 persons, though it may be that their jobs will be permanent anyway.

Mr. President, I have always supported advance planning, and I presume I shall do so again. However, last October the Congress decided that this work should be placed in the General Services Administration. Four or five months later the President sends us a plan transferring it to another agency. Of course, he has a perfect right to do that, but we shall have to determine some time next year whether the Community Facilities Service is to be continued or is not to be continued.

Let Congress consider whether it wants to continue the program and let Congress decide under which agency of the Government it wants the work placed. It may be that a year from now Congress will say, "We will put it under the Housing and Home Finance Agency." However, after due consideration Congress already has said, "We will put it under General Services Administration, because it applies to all community facilities exclusive of housing." Housing is completely excluded from this work.

So, Mr. President, I think we shall lose nothing and perhaps shall gain a great deal by postponing, at least, approval of this reorganization plan until Congress decides, next year, what it wishes to do with the programs affected.

Mr. CAIN. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. HOEY in the chair). Does the Senator from Vermont yield to the Senator from Washington?

Mr. AIKEN. I yield.

Mr. CAIN. With the permission of the senior Senator from Vermont, I should like to clear the record by merely stating what Funk & Wagnall's Standard Dictionary has to say about the word "exacerbation"—a word with which, by the way, perhaps some of us in the Senate had not previously been familiar.

The definition as stated in that dictionary is simply the following:

> Exacerbation: The act of exacerbating or the state of being exacerbated.

[Laughter.]

Mr. AIKEN. I am sure that is understandable to the persons who used the word.

Mr. CAIN. The definition goes on to say:

> Increased severity, as in the symptoms of a disease.

A natural question comes into the mind of the junior Senator from Washington with reference to this word. Would the Senator from Vermont give us his opinion as to the use of the word in the memorandum from which he has been reading?

Mr. AIKEN. I shall read that part of it again:

> The retention of the activity in GSA means that should the program not be renewed—

That is, next year—

> the Staff of the Community Facilities Service will have no place to go. The result will be an exacerbation of that sense of isolation and insecurity which the lack of identification with the central mission of GSA has already produced.

Mr. President, I did not know that a desire to perpetuate one's job was a disease. I thought it was a very inherent human quality. However, it appears from the note that these employees have been out in the field drumming up trade in order to make their jobs necessary.

Mr. CAIN. If those employees are not retained on a permanent basis by some Federal agency or other—in this case, the Housing and Home Finance Agency—those employees, individually and collectively, run a very serious risk of being exacerbated; do they not?

[Laughter.]

Mr. AIKEN. That is correct.

Mr. CAIN. I thank the Senator.

Mr. AIKEN. I understand that practically all of them are competent, capable employees who are worrying about what they are going to do when the temporary program in which they are engaged has expired, and for that reason it has been thought best to transfer them to a larger permanent agency of the Government, where they may find permanent employment and where their services may be used. However, I maintain that is not in accord with the recommendations of the Commission to study the reorganization of the executive branch of the Government.

Mr. CAIN. But if we asked those splendid workers what was principally worrying them these days, does the Senator from Vermont think they would rejoin by saying, "We are worried about losing our jobs" or does the Senator think they would reply, "We are worried about the fact that we may be exacerbated in the years immediately ahead." [Laughter.]

Mr. AIKEN. Of course there are 36 Senators whose terms expire this fall, and perhaps they may feel about the same way the 388 employees of the Community Facilities Service feel. I suppose that everyone is job conscious and wants to continue his job.

However, it is not the obligation of the Government to guarantee jobs to temporary employees, or even to permanent employees. The Government should hire employees only when they are needed and should hire them for such periods of time as they may be needed.

Mr. CAIN. Does the Senator from Vermont think that the average American who might receive a letter on the general subject of changing jobs or of trading jobs, would know that any jobs were involved when the word "exacerbating" was used?

Mr. AIKEN. I would not have, until the Senator from Washington read the definition. I thought it might have been a misspelling; but evidently it was not.

Mr. O'CONOR. Mr. President——

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. O'CONOR. At the outset I desire merely to read a letter, in order to clarify one point in connection with this matter. Then I shall yield to the Senator from Alabama.

I read now a letter from the Citizens Committee for the Hoover report. The letter is signed by Dr. Robert L. Johnson. Inasmuch as some question has arisen in regard to whether or not the Citizens Committee is favorable to the President's reorganization plan, I think this letter is of particular interest. I read the following excerpt from it:

> POSITION ON PLAN NO. 17
>
> In its circular letter No. 2, dated April 10, 1950, the Citizens Committee indicated that plans Nos. 15 and 16, transferring functions from the General Services Administration, were regarded as in keeping with general proposals of the Hoover Commission. The circular went on to say that "whether other transfers from the General Services Administration in plan No. 17 are consistent with Hoover Commission recommendations appears to be debatable."
>
> The committee's original comment on plan No. 17 was based on the need for further study of the relationship between the plan and the public-works proposals of the Hoover Commission. Additional analysis has resolved the uncertainty in favor of the plan. In its statement of May 12, the committee announced its support of all 20 reorganization plans pending before Congress after the defeat of Reorganization Plan No. 12. With respect to plan No. 17, it is believed that the programs transferred from General Services Administration no longer belong in the central services agency, as proposed by the Hoover Commission. Nor does there appear to be a conflict with the Commission's recommendation that direct Federal construction activities be grouped in the Department of the Interior, for it was also recommended that public-works programs supported by grants or loans be carried out by the major-purpose departments. The principal program transferred by plan No. 17 is a loan-supported activity.
>
> In view of these considerations, the Citizens Committee reaffirms its endorsement of plan No. 17 and hopes that Senate Resolution 273 will be rejected.
>
> Respectfully yours,
>
> ROBERT L. JOHNSON.

Mr. President, I now yield 15 minutes to the junior Senator from Alabama [Mr. SPARKMAN].

Mr. SPARKMAN. Mr. President, I strongly urge the defeat of Senate Resolution 271 to disapprove Reorganization Plan 17. It would be difficult to conceive of a reorganization plan which would be more in accord with the specific intent and purposes of the Congress declared in the Reorganization Act of 1949.

The plan would consolidate similar functions into one agency, eliminate overlapping and duplication of effort, promote efficiency and economy, and improve Federal-State relationships. It would transfer two relatively small programs from the General Services Administration, which otherwise performs entirely unrelated functions, to the Housing Agency which performs similar or identical functions.

This plan has been carefully studied and developed by the Bureu of the Budget which testified that the transfer could be made without disrupting or delaying any existing operations, because the office in GSA administering the programs—the Community Facilities Service—could be transferred almost intact. The Bureau also explained that the transfer would result in financial savings to the Government.

By the way, Mr. President, my good friend, the distinguished Senator from Vermont, had something to say about savings. I understand that, since the plan was originally submitted to the Senate, there have been discussions among General Services Administration, the Federal Housing Administration, and the Budget Bureau, and, although neither one of those agencies has yet made a direct statement as to the savings to be effected, it is my understanding the estimate is that probably 20 percent and perhaps as high as 25 percent of savings will be effected.

Furthermore, Mr. President, when we are talking about savings to be effected through these various plans we might well remember that in a recent statement by Dr. Johnson, the Chairman of the Citizens Committee for the Hoover Report, he advocated the approval by the Senate of all 20 of the reorganization plans then pending before us. I want to quote but one or two sentences from that letter.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. SPARKMAN. May I give the quotation first?

Mr. AIKEN. Certainly.

Mr. SPARKMAN. I read:

> An orderly governmental structure was the objective of the President in submitting these 20 plans. The monetary savings from them will not come today or tomorrow, but eventually savings from them are a certainty.

Mr. AIKEN. Mr. President, if the Senator from Alabama will yield, I should like to ask whether he is aware of the fact that the Citizen's Committee for the Hoover Report canceled its request to present testimony in favor of plan No. 17 quite recently? They were scheduled to testify for it but canceled the request subsequently.

Mr. SPARKMAN. Of course, I did not know that. I am not a member of the committee. But I know that on May 12 the Citizen's Committee issued a statement definitely and specifically endorsing plan No. 17, and I know about the letter which the able Senator from Maryland has just read. If the Senator has that letter, I wonder whether he will tell me the date of it?

Mr. O'CONOR. The letter is dated May 22.

Mr. SPARKMAN. That was yesterday. The letter tells us that the committee has made a very careful analysis of plan No. 17, that in its opinion it accords completely with the recommendations of the Hoover Commission, and that, without any reservation whatever, they endorse plan No. 17 and call upon the Senate to defeat the resolution, which, by the way, was reported to the Senate without recommendation by the committee of which my esteemed friend is a member. In other words, even the committee is not recommending that this plan be rejected.

Mr. AIKEN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Vermont?

Mr. SPARKMAN. I yield.

Mr. AIKEN. I should like to call the Senator's attention to what I understand to be a fact, namely, that the Citizen's Committee did not specifically endorse plan No. 17, but collectively endorsed 20 of the reorganization plans, of which No. 17 happened to be one.

Mr. SPARKMAN. That was true, as of May 12, but, on May 22, yesterday, the Citizen's Committee wrote a letter, which the Senator from Maryland has just read into the RECORD, in which letter they definitely and specifically endorsed plan No. 17, do not merely include it with some other plans.

Mr. AIKEN. Is not the Citizens Committee entitled to make one mistake out of 21 tries ?

Mr. SPARKMAN. I will concede that anyone has the right to make one mistake, but I am here arguing that the recommendations made by the Hoover Commission, upon which Commission, by the way, my good friend from Vermont served, be approved by the Senate and by the Congress. Plan No. 17 is one of them, and the Citizens Committee, which has been established throughout the country for the purpose of analyzing the plans and making recommendations, has so recommended to the Congress.

Mr. President, if I may continue with my statement, one of the programs to be transferred is the operation and disposition of public works—sewers, water systems, schools, and so forth—built or assisted by the Federal Government under the Lanham Act in communities which had to develop these facilities rapidly because of defense or war activities. These are essentially the same communities where the Government's war housing was built, which is now under the jurisdiction of the Housing Agency. These housing projects were also built under the same act. Both of these housing and public works programs were originally placed by Congress in the same Agency, the Federal Works Agency, which has since been abolished. Reorganization Plan 17 would again combine these two programs in one agency.

No one would seriously contend that the disposition of these public works and these housing projects should not be handled by the same agency. To a large extent the facilities which the Housing Agency already has for disposal in connection with housing projects, such as sewers, schools, and water systems, are the same kinds of public works being disposed of by the GSA. Over one-third of all the public works yet to be disposed of by GSA are physically connected with housing projects of the Housing Agency, so that it is not feasible to dispose of such public works separate from the housing. Many other public works are so closely related to housing that, in the disposition of either, extended consultation and negotiations are necessary as to both. Thus, city officials now have to deal with two Government agencies disposing of the same kind of public works. Where public works of the GSA are physically connected to housing, the local officials have to deal with two separate Government agencies in acquiring what amounts to a single project.

There can be no question as to which agency should have responsibility for this whole disposition program. The public works disposition constitutes only an incidental and small fraction of the program, less than one-thirtieth by dollar amount. Only last month the Congress passed the Housing Act of 1950 which provided in specific detail for the disposition of all war and veterans' housing by the Housing Agency. This included all types of temporary and permanent Lanham Act war and veterans' housing remaining under the jurisdiction of the Housing Agency. The farm labor camps of the Department of Agriculture were also transferred by that act to the Housing Agency for management and disposition. These functions were given to that Agency because of the confidence which the Congress had in its ability to carry them out efficiently and in accordance with the intent of Congress. I believe this confidence was well placed, in view of the speed and efficiency with which the Agency has already handled the disposal of certain veterans' housing to schools and cities under the McGregor Act and related laws, and because of the past and continuing relationships between that Agency and municipalities on matters relating to housing and community development.

The other program to be transferred by Reorganization Plan No. 17 is the function of making advances to cities and other local bodies for the planning of public works. There is general agreement, I believe, that this program is unrelated to the purposes for which the General Services Administration was established by the Congress last year. It is a servicing agency for executive departments and other agencies, and its major purposes do not involve the States and localities. On the other hand, the advance planning program has a clear and definite relationship to the slum clearance and urban redevelopment program being administered in the Housing Agency.

Both of these programs consist of financial aid to localities to help them in their community development. Neither involve construction by the Federal Government. The public undertakings assisted are local projects to be developed pursuant to local plans. Basically, both programs are directed toward the planning and development of communities. The same kinds of public works may be included in projects under both programs—streets, sewers, waterworks, municipal buildings, and so forth.

It is true that slum clearance and redevelopment projects of the Housing Agency must be related to housing in some manner, under the law, a slum must be cleared or new housing planned for the cleared site. It is also true, however,

that public works under the advance planning program generally relate to housing directly or indirectly. Usually this relationship is very direct, as in the case of public utilities such as water and sewer lines. In any event, the development of almost all public works and improvements of a city are incidental and closely related to the development of housing in the area and are designed to benefit residential property and its occupants in some manner.

As the advance planning program of GSA consists of functions which are either similar to, or identical with, functions performed under the slum-clearance and urban-redevelopment program of the Housing Agency, the combination of those functions would obviously make possible greater consistency, efficiency, and economy.

Mr. President, one of the principal arguments advanced against Reorganization Plan No. 17—and my friend the Senator from Vermont has referred to it this afternoon—was that it was feared it would give permanent jobs to employees hired on a temporary basis. Actually, there is no basis whatever for that contention. An investigation of the facts shows that every one of the employees who would be transferred already has a permanent civil service classification.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. AIKEN. The Senator from Alabama does not contend that a permanent civil service status is equivalent to a permanent Government position, does he?

Mr. SPARKMAN. No; not at all. I remember what has been said about the temporary nature of the service. It does not expire in October 1951. Its power to make commitments expires at that time.

Let me read something which the Senator's own committee said when it established this emergency service within the General Services Agency:

> The President is given authority to continue the Bureau of Community Facilities within the new agency—

That is, when the General Services Agency was established—

> for such time as he may determine, and the Congress should consider this problem further in connection with related reorganization.

I say that my friend's own committee certainly must have had in mind, when it made that report, that this was merely a temporary arrangement in General Services Administration, and that sooner or later it should be reorganized and placed in some other agency. I do not see how any other construction can be given to that language in the report of the committee of which my friend is a member.

Mr. AIKEN. Mr. President, will the Senator yield further?

Mr. SPARKMAN. I yield.

Mr. AIKEN. Is the Senator referring to the statement made by a representative of the Bureau of the Budget?

Mr. SPARKMAN. No; I am speaking of a statement directly from the report of the Senator's committee when it provided for the establishment of the General Services Administration.

Mr. AIKEN. I should like to correct any false impression which may have been made. A day in October 1951, is the last day on which a community can make application for a grant.

Mr. SPARKMAN. That is correct.

Mr. AIKEN. We were advised by Federal officials that it would probably take them 3 years to process the last application which they might have for a grant of Federal funds. I shall have to admit that I was very much amazed to learn that it would take possibly 3 years to process applications. Nevertheless, I had their word for it. I recalled the tenacity of some of the temporary agencies in the past——

Mr. SPARKMAN. As a matter of fact, the Senator's statement is not entirely accurate, because it does not mean that it takes that long to process a loan, but it would take that long for all of the work to be done which would involve the disbursement of all the funds committed prior to October 1951. However, I think we may as well be practical about it. I think everyone of us knows that some such activity will be continued even beyond that time. Whether it is to be permanent or to be temporary, it should follow the activities with which it is so closely related into the Housing and Home Finance Agency in which we placed those activities.

Originally, Mr. President, the activities were under the Public Works Agency. We have already, in the Housing Act of 1949, transferred one activity by legislative action. The reorganization plan simply would carry the other part into the same agency in which it was originally placed by Congress when the two functions were started.

Mr. CAIN. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. CAIN. Mr. President, when I came to the floor earlier this afternoon it was with every expectation that the junior Senator from Washington would vote to support Reorganization Plan No. 17, and I still want to do that, because, in my view, it is only a logical step to group the related functions as recommended by the plan; but a few minutes ago the distinguished Senator from Vermont read a memorandum which I think not only caused me some concern, but caused some of my colleagues concern as well. Would the Senator from Alabama agree with me that some Senators on the administration side of the aisle ought to deny the validity of the reasons offered in that memorandum, written, I suppose, by a responsible official of the Budget Bureau? In that memorandum the suggestion is made that the plan should be adopted, not because it will logically relate functions, but because it will help to preserve employment for members of the executive branch. I am satisfied that the Senator from Alabama has no such intention or desire in mind. I should like his views as to how we can deny it and make our views felt before the Budget Bureau with reference to a serious matter of this nature.

Mr. SPARKMAN. I assure the Senator from Washington——

The PRESIDING OFFICER. The time of the Senator from Alabama his expired.

Mr. O'CONOR. Mr. President, I yield three additional minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 3 minutes.

Mr. SPARKMAN. I am in agreement with the Senator from Washington in the matter which he just suggested. By no means—and I want to make this as a positive statement—by no means should any reorganization plan be opposed because it would mean cutting down personnel in Government employment. As a matter of fact, that is one of the puropses of reorganization.

Mr. CAIN. That is one of the great purposes, as I have understood.

Mr. SPARKMAN. If that is the full meaning of the memorandum—I believe the Senator from Vermont only quoted a part of the memorandum—I think it was a very unfortunate memorandum. I invite the Senator's attention to the fact that it was written in February or March. I do not have the exact date. I state on my own responsibility that I know there have been conferences within the past few days between the three agencies concerned, the General Services Administration, the Bureau of the Budget, and the Housing and Home Finance Agency, and I know—at least, I have received the information from what I consider to be a very good source—that it was the general opinion that considerable savings could be effected through this reorganization plan.

I might have been able to submit a memorandum today stating that, except for the fact that naturally neither one of the agencies wanted to make a definite commitment as to a specific percentage that could be saved, but I can say on my own responsibility that I think we are justified in expecting a saving of possibly 20 and perhaps a higher percentage.

Mr. CAIN. The savings which the Senator thinks may come from the adoption of the plan will result in part from a decrease rather than from an increase or the continuance of the same working force as is so strongly urged in the recommendation.

Mr. SPARKMAN. I certainly think that would be true, probably not tomorrow, but gradually.

Mr. CAIN. I thank the Senator from Alabama.

Mr. O'CONOR. Mr. President, in associating myself with the Senator from Alabama [Mr. SPARKMAN], I desire to refer in a minute to certain testimony from the official in the Government who presumably knows most about the subject, and who by action of this Congress was placed in charge of the General Services Administration. I refer to Mr. Jess Larson, the Administrator of the General Services Administration, which now discharges the functions of advance planning of non-Federal public works and the management and disposal of the relatively few wartime public facilities which would be transferred. This is essentially a service organization. It has no basic relation to those two functions,

and its Administrator, Mr. Larson, has expressed himself in testimony before the Senate Committee on Expenditures in the Executive Departments as being wholly in favor of this plan.

Mr. President, I shall read from his testimony at page 44. This statement is entitled to the greatest weight by the Senate because Mr. Larson bases it on his experience in the handling of the very matters here under discussion. He says:

> Since the creation of the agency, our emphasis has been on the formation of a service organization, and as this organization has begun to grow and take place, it has become obvious that these functions which were formerly Federal Works functions do not fit into the slot as readily as the related functions to which I have referred.

He goes on to explain that they would be better handled by being transferred to the Housing and Home Finance Agency where, as the Senator from Alabama [Mr. SPARKMAN] pointed out, undoubtedly economies can be effected.

In testifying for the plan, Mr. Larson pointed out that the continuing growth and development of the General Services Administration has convinced him that the types of programs administered by the Community Facilities Service simply do not fit in with the overriding purpose of the General Services Administration. The essential fact here is that the Community Facilities Service came to the General Services Administration intact from the Federal Works Agency, which, of course, was one of the predecessor constituents of the General Services Administration and which was abolished by the Federal Property and Administrative Services Act of 1949 which created the General Services Administration. The personnel of the Community Facilities Service is being affected by several of this current group of reorganization plans and will be transferred together with their programs to other Federal agencies more closely identified with the work involved.

Mr. President, failure of the Congress to permit Reorganization Plan No. 17 to become effective would have the incongruous result of retaining in the General Services Administration a very small group of highly experienced persons who will actually work in isolation enforced by the complete unrelatedness of their activities to any other segment of the General Services Administration.

Another fact pointed out by the Senator from Alabama [Mr. SPARKMAN], which I think deserves further emphasis, is that these programs, by their very nature, will not end in the near future. As a matter of fact, it is thought that in some respects there may be work entailing 3 years of further effort.

The Housing and Home Finance Agency, which would be the recipient of both functions under this plan, is already directed by law to conduct planning operations in the housing field, and the placing in HHFA of this additional function, which covers all types of public works necessarily appurtenant to housing, is a logical move to make. The opposition to the plan has emphasized that the law authorizing this advance planning specifically excludes housing. However, it is my view that that exclusion merely serves to emphasize the wisdom of this transfer. The exclusion of housing from this planning function conforms wholly to the planning functions now in HHFA which, of course, are solely in the field of housing. There is no need that the new planning function cover housing because that authority is already in HHFA. This additional planning activity is implementary to that which HHFA already has.

The other function which would be transferred by Reorganization Plan No. 17 is the management and disposal of certain war public works. During the war the Government found it necessary to provide community facilities such as water, sewage, and sanitary services, where those already in existence became overtaxed as a result of population increases due to war activities. Where the Federal Government was the sole sponsor of the facilities, it became the sole owner and the program involved is simply the disposal of remaining facilities and the management of those which are still on hand. They are in every case adjuncts to community living and are therefore intimately related to all programs of the Housing and Home Finance Agency. Naturally, this is a purely temporary function but its duration is governed entirely by the indeterminable length of time which will be required for final disposition. Furthermore, the management and disposition of those facilities are a part of the responsibility of the same group of personnel comprising the Community Facilities Service, and who would be transferred to the Housing and Home Finance Agency with the advance planning function.

Mr. President, I should like to refer to one further fact. The opposition has alleged that it is obvious that Reorganization Plan No. 17 is designed solely for the benefit of the personnel of the Community Facilities Service. They have been pictured as a group of temporary employees whose principal occupation is agitation for bigger and better programs which they might acquire and which would serve to prolong their tenure in the Federal service.

That is a point to which the Senator from Alabama has given attention, and I think he has done so very convincingly.

This is most certainly not true. As the Commissioner of the Community Facilities Service himself said, the staff is comprised of a group of career employees in the classified civil service who have for many years been engaged in the diversified construction programs formerly handled by the Federal Works Agency and now conducted by the same group located within the General Services Administration. While some of the programs which they may have administered may be classified as temporary, certainly the staff itself is as definitely in the category of permanent personnel as any group in the Federal service can possibly be. It is my view that the allegations which have been made with respect to this staff are not well founded. In this case I believe we have an instance of a group of high-class professional employees seeking earnestly for a means of making a worth while and continuing contribution to Federal programs within their fields and if such can be better accomplished in an agency other than that in which they are now situated, I feel that nothing should be allowed to impede the transfer.

In conclusion, I wish only to say that Reorganization Plan No. 17 is directly in conformance with the major principles of better administration as expressed by the Hoover Commission and as recognized by those who have given study to the matter. I urge the Members of this body to join me in voting to defeat Senate Resolution 271 and to permit this plan to become effective at midnight tonight.

Mr. CAIN. Mr. President, will the Senator yield for a question?

Mr. O'CONOR. I yield.

Mr. CAIN. I should like to address a question to the Senator from Maryland, particularly in his capacity as a leader among those who are offering and advancing the several reorganization plans on the floor of the Senate. If the Senator from Maryland was on the floor, as I think he was, when the Senator from Vermont read the memorandum which came from the office of the Bureau of the Budget, I should very much appreciate having the Senator from Maryland express his views on it and say whether or not in his view continuing employees or increasing the number of employees should ever be justification of adopting a reorganization plan.

Mr. O'CONOR. I am very pleased to answer the Senator from Washington. I believe the statement to which he refers was taken out of context and does not represent accurately the views of those who prepared the memorandum. However, more important than that is the fact that, while any contemplated transfer may very well have disturbed or be disturbing to personnel, I do not believe that is the determining factor.

I agree entirely with the views expressed by the Senator from Washington in a previous question, that we should aim toward reduction in forces where such reduction is possible, and that the individual whims and the individual feelings of the employees should not be the determining factors. I entirely agree with the Senator.

The PRESIDING OFFICER. The time of the Senator from Maryland has expired.

Mr. AIKEN. I yield 2 minutes to the Senator from Idaho [Mr. DWORSHAK].

The PRESIDING OFFICER. The Senator from Idaho is recognized for 2 minutes.

Mr. DWORSHAK. Mr. President, within the past few minutes' debate proponents of the pending plan, particularly the Senator from Alabama, have referred to the fact that the Citizens' Committee has approved the plan and is appealing for its approval by the Congress.

I have in my hand a report dated March 15, 1950, released by the Senate Committee on Expenditures in the Executive Departments, which gives details, insofar as the committee is concerned, regarding the various reorgani-

zation plans. On page 6 of the report I note that Reorganization Plan No. 17 is listed as having no conformance with the Hoover Commission recommendations. In fact, plan No. 17 is the only one of the 21 which can be placed in the category of specifically having no recommendations from the Citizens' Committee, and therefore not being in accord with the recommendations of the Hoover Commission.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. DWORSHAK. I yield.

Mr. SPARKMAN. I wish to correct the Senator in one statement. The two committees are entirely different. One is the Senate Committee on Expenditures in the Executive Departments, the other is the Citizens' Committee, composed of members scattered over the country. The Senator from Maryland read into the RECORD a letter signed by the chairman of the Citizens' Committee endorsing the plan 100 percent, and saying it does conform.

Mr. DWORSHAK. I thank the Senator for that comment. I am aware of that fact, but I merely wish to ask, what right does the Citizens' Committee have to appeal to this body to support Reorganization Plan No. 17, when that plan does not conform with any recommendations made by the Hoover Commission?

My point is that we have heard much during the debate of the past few days about what the Hoover Commission has recommended. Any Senator who studied the reports released by the committee of the Senate which studied the recommendations would come to the conclusion that there has been much misrepresentation made during the debate. I do not charge that it has been deliberate, but at least it has been confusing to some Senators who desire to follow and accept the recommendations of the Hoover Commission, and yet find that the President has submitted many reorganization plans which were not based upon those recommendations, or, in some cases, on only a few of the recommendations, while there has been deliberate disregard of the Hoover recommendations by most of the plans which have been referred to the Congress by the President.

Mr. AIKEN. Mr. President, it has been very interesting at times to listen to the various interpretations which have been put upon the recommendations and the findings of the Hoover Commission by employees of the executive branch of the Government and also by a great many citizens in the States, most of them extremely well intentioned. But I have to say that some of the interpretations which have been put upon the recommendations have been very much at variance with what I believe to be the intents and purposes of the Hoover Commission recommendations. When I say that I am speaking as a member of the Commission itself, and therefore feel that, along with the Senator from Arkansas [Mr. MCCLELLAN], as the two members representing the Senate on the Hoover Commission, we probably have a pretty fair idea of what the purposes of the recommendations made by the Commission are.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Hill	Malone
Benton	Hoey	Martin
Brewster	Holland	Millikin
Bricker	Humphrey	Mundt
Bridges	Hunt	Myers
Butler	Ives	Neely
Byrd	Jenner	O'Conor
Cain	Johnson, Colo.	O'Mahoney
Capehart	Kefauver	Robertson
Chapman	Kem	Russell
Cordon	Kilgore	Saltonstall
Darby	Knowland	Schoeppel
Donnell	Langer	Smith, Maine
Douglas	Leahy	Smith, N. J.
Dworshak	Lehman	Sparkman
Ecton	Long	Stennis
Ellender	Lucas	Taft
Ferguson	McCarran	Taylor
Flanders	McCarthy	Thomas, Utah
Fulbright	McClellan	Thye
George	McFarland	Watkins
Gillette	McKellar	Wherry
Hayden	McMahon	Wiley
Hendrickson	Magnuson	Williams

The PRESIDING OFFICER. A quorum is present.

The question before the Senate is on agreeing to Senate Resolution 271 disapproving Reorganization Plan No. 17.

Mr. LANGER and other Senators asked for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. MYERS. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Oklahoma [Mr. KERR], the Senator from Florida [Mr. PEPPER], and the Senator from Maryland [Mr. TYDINGS] are absent on public business.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from South Carolina [Mr. JOHNSTON], and the Senator from Oklahoma [Mr. THOMAS] are absent by leave of the Senate.

The Senators from Texas [Mr. CONNALLY and Mr. JOHNSON], the Senator from Mississippi [Mr. EASTLAND], and the Senator from Kentucky [Mr. WITHERS] are detained on official business.

The Senator from California [Mr. DOWNEY], and the Senator from North Carolina [Mr. GRAHAM] are absent because of illness.

The Senator from Delaware [Mr. FREAR] is absent by leave of the Senate on official business.

The Senator from Rhode Island [Mr. GREEN] is absent by leave of the Senate on official business as a member of a subcommittee of the Committee on Foreign Relations investigating the security program of the Department of State and its foreign establishments.

The Senator from South Carolina [Mr. MAYBANK] is absent by leave of the Senate because of a death in his family.

The Senator from Montana [Mr. MURRAY] is absent because of a death in his family.

If present and voting, the Senator from New Mexico [Mr. ANDERSON], the Senator from Rhode Island [Mr. GREEN], the Senator from Texas [Mr. JOHNSON], the Senator from South Carolina [Mr. MAYBANK], and the Senator from Maryland [Mr. TYDINGS] would vote "nay."

Mr. SALTONSTALL. I announce that the Senator from South Dakota [Mr. GURNEY], the Senator from Michigan [Mr. VANDENBERG], and the Senator from North Dakota [Mr. YOUNG], are absent by leave of the Senate.

The Senator from Iowa [Mr. HICKENLOOPER] who is absent by leave of the Senate is paired with the Senator from Oregon [Mr. MORSE] who is also absent by leave of the Senate. If present and voting the Senator from Iowa would vote "yea" and the Senator from Oregon would vote "nay."

The Senator from Massachusetts [Mr. LODGE] is absent by leave of the Senate on official committee business.

The Senator from New Hampshire [Mr. TOBEY] is absent on official business. If present and voting the Senator from New Hampshire would vote "nay."

The yeas and nays resulted—yeas 29, nays 43, as follows:

YEAS—29

Aiken	Flanders	Malone
Brewster	Fulbright	Martin
Bridges	Hendrickson	Millikin
Butler	Ives	Mundt
Byrd	Jenner	Saltonstall
Capehart	Kem	Schoeppel
Cordon	Langer	Smith, Maine
Donnell	McCarran	Thye
Dworshak	McCarthy	Wherry
Ecton	McClellan	

NAYS—43

Benton	Hunt	O'Conor
Bricker	Johnson, Colo.	O'Mahoney
Cain	Kefauver	Robertson
Chapman	Kilgore	Russell
Darby	Knowland	Smith, N. J.
Douglas	Leahy	Sparkman
Ellender	Lehman	Stennis
Ferguson	Long	Taft
George	Lucas	Taylor
Gillette	McFarland	Thomas, Utah
Hayden	McKellar	Watkins
Hill	McMahon	Wiley
Hoey	Magnuson	Williams
Holland	Myers	
Humphrey	Neely	

NOT VOTING—24

Anderson	Gurney	Murray
Chavez	Hickenlooper	Pepper
Connally	Johnson, Tex.	Thomas, Okla.
Downey	Johnston, S. C.	Tobey
Eastland	Kerr	Tydings
Frear	Lodge	Vandenberg
Graham	Maybank	Withers
Green	Morse	Young

The PRESIDENT pro tempore. On this vote, the yeas are 29, the nays 43. A majority of the authorized Members of the Senate not having voted in the affirmative, the resolution (S. Res. 271) is not agreed to.

REORGANIZATION PLAN NO. 18 OF 1950

Under the unanimous-consent agreement,

The PRESIDENT pro tempore. The Chair now lays before the Senate Senate Resolution 270.

The Senate proceeded to consider the resolution, which is as follows:

Resolved, That the Senate does not favor the Reorganization Plan No. 18 of 1950 transmitted to Congress by the President on March 13, 1950.

The PRESIDENT pro tempore. Under the agreement, there is to be 1 hour for debate, with the time to be equally divided between the proponents and the opponents and to be controlled by the Senator from Maryland [Mr. O'CONOR]

and the Senator from Vermont [Mr. AIKEN], respectively.

Mr. O'CONOR. I yield to the Senator from Minnesota.

Mr. THYE. Mr. President, as a member of the Committee on Post Office and Civil Service, and also as a cosponsor of Senate Resolution 270, I wish to say that I joined as a cosponsor for the purpose of having hearings at which we could develop the facts concerning Reorganization Plan No. 18. The hearings were held, and much testimony was taken, and much consideration and thought were given to the entire question of reorganization under plan No. 18.

After having obtained all the facts, even though I am a cosponsor of Senate Resolution 270, I consider that there is more to be gained by means of the adoption of the reorganization plan than by means of supporting the objections to the plan.

However, I feel that there are some employees within the Custodial Division of the Post Office Department who, if the plan goes into effect, will suffer losses. Between 4,000 and 5,000 employees in that agency now have the benefit of longevity pay. If they are transferred to the General Services Administration, they will lose the benefit of the longevity-pay provision, and as a result they may lose anywhere from $100 to $300 in pay. I feel that those employees should in some manner be taken care of in the future. However, I believe that matter can be taken care of either by legislative action or by administrative action on the part of the agency which will receive these employees.

Mr. CAIN. Mr. President, will the Senator yield for a question?

Mr. THYE. I am very happy to yield to the distinguished Senator from Washington.

Mr. CAIN. Will the Senator please explain why the employees would lose their longevity pay rights merely by being transferred from one branch of the Government to another?

Mr. THYE. The branch of the Government to which they would be transferred does not recognize longevity, nor does it have a provision for longevity pay. Only the Post Office Department has such a provision for its employees. However, there is some difference in annual leave and in sick leave, because of which the employees in question will obtain a benefit when they are transferred to the other administrative branch of the Government. On the other hand, from the standpoint of longevity pay, legislatively they have been granted some specific salary increases on the basis of longevity.

Mr. CAIN. I thank the Senator.

Mr. THYE. Those employees will stand to lose that when they are transferred. However, I believe the Congress or the administrative division to which they are transferred can take care of the longevity pay due the employees who will be transferred.

So, Mr. President, because I feel that Reorganization Plan No. 18 provides so many benefits which are most desirable, I believe that even though there are employees who will be discriminated against, the plan should go into effect.

Mr. O'CONOR. Mr. President, will the Senator yield for a question?

Mr. THYE. I shall be very happy to do so.

Mr. O'CONOR. Knowing that the Senator from Minnesota has devoted very much time in the interest of these Government employees, let me ask him a question for information. As a result of the interest of the Senator from Minnesota and others, since this plan was submitted the Civil Service Commission has promulgated several orders which in large measure take care of very many of the objections to which the Senator has referred. Is that not correct?

Mr. THYE. That is quite true. However, they do not take care of the longevity pay, and those employees justly and rightfully should be taken care of because of that situation. It is for that reason that I mentioned that some legislative action in the future or some administrative action in the future should be taken in recognition of the fact that those employees will be losing anywhere from $100 to $300 in the way of salary increases which they could receive if they remained in the service of the Post Office Department.

Mr. O'CONOR. I do not disagree at all. I simply wish to emphasize the point that action which has been taken will in some degree take care of that situation.

Mr. President, will the Senator yield for a further question?

Mr. THYE. I am glad to yield.

Mr. O'CONOR. Is it not also true that the employees who are transferred will receive additional benefits both in regard to annual leave and in regard to sick leave, in that the number of days of leave will be increased, and they will have the benefits of the increased leave in both of those respects?

Mr. THYE. That is correct.

Mr. AIKEN. Mr. President, as I understand, at the end of the session last evening the Senate voted that the time for the consideration of these resolutions should be controlled by the Senator from Maryland [Mr. O'CONOR], on the one side, and by myself, on the other. I understand that under that arrangement I am supposed to be in charge of the 30 minutes allocated to the supporters of the resolution disapproving of Reorganization Plan No. 18 which is now before the Senate. Inasmuch as I do not expect to vote to disapprove plan No. 18, it seems to me a little inconsistent that I should be in control of the time for those who oppose it.

Therefore, I ask whether there is now present any Member of the Senate who will take a position in opposition to plan No. 18, so that the time may be transferred to him.

Mr. O'CONOR. Mr. President, will the Senator yield?

Mr. AIKEN. I yield.

Mr. O'CONOR. I understand that the able Senator from West Virginia [Mr. NEELY] is to make a statement in regard to this matter. I merely suggest that possibly that might be the solution.

Mr. AIKEN. Then, Mr. President, I ask unanimous consent that the control of the time which I have had, be transferred from myself to the junior Senator from West Virginia [Mr. NEELY].

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. AIKEN. I am not in a position to say how much of the time has been used, or by which Senators it has been used.

ATTEMPTS BY SECRETARY GENERAL OF THE UNITED NATIONS TO SECURE RECOGNITION OF THE CHINESE COMMUNIST REGIME

Mr. KNOWLAND. Mr. President, will the Senator from Maryland yield 4 minutes to me to permit me to make a statement on a different subject?

Mr. O'CONOR. I am very happy to yield to the Senator from California.

The PRESIDENT pro tempore. The Senator from California is recognized for 4 minutes.

Mr. KNOWLAND. Mr. President, is there another Munich in the making? Indications exist that Trygve Lie, Secretary General of the United Nations, and partisan of the Soviet Union's position relative to seating the Chinese Communist regime in the United Nations, is busily engaged in selling his 1950 brand of appeasement.

In 1938, Prime Minister Chamberlain, of Great Britain, and Premier Daladier, of France, thought that by surrendering the sovereignty of Czechoslovakia they were gaining peace in our time. We know now that by paying international blackmail to Hitler they were making certain ever-increasing demands which finally could not be paid.

Mr. Lie's proposal has been to entice the Soviet Union back into the United Nations, which it voluntarily left because the other members did not yield to the pressure tactics of the Soviet walk-out technique. The President of the United States, in his letter transmitting his fourth annual report on the United Nations, described the action as the willful flouting by the Soviet Government of obligations assumed by it under the Charter. Yet Mr. Trygve Lie would have the other members yield to this type of pressure in order to bring the Soviet Union back.

Mr. President, I strongly believe that this yielding to Soviet pressure will be as destructive to the United Nations and to the ultimate peace of the world as was the pact of Munich.

Once the Soviet Union has demonstrated that by such unilateral action it can bend the United Nations to its knees, I predict that the walk-out technique will be tried again and again and again.

Perhaps the next walk-out will be on the issue of our refusal to accept the Soviet formula on atomic energy, or perhaps it will be on the refusal of this Nation and our western allies to repudiate the North Atlantic Pact.

It may be on some other issue which is not yet clear; but the precedent will be established that in order to appease the Soviet Union, the Secretary General will use the vast power and prestige of

81ST CONGRESS
2D SESSION

S. RES. 271

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, MARCH 29), 1950

Mr. AIKEN submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 18 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, without recommendation

MAY 23 (legislative day, MARCH 29), 1950

Considered and disagreed to

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 17 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 271

RESOLUTION

Disapproving Reorganization Plan Numbered 17 of 1950.

By Mr. AIKEN

MAY 10 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 18 (legislative day, MARCH 29), 1950
Reported without recommendation

MAY 23 (legislative day, MARCH 29), 1950
Considered and disagreed to

81ST CONGRESS } HOUSE OF REPRESENTATIVES { DOCUMENT
2d Session } { No. 523

REORGANIZATION PLAN NO. 18 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 18 OF 1950 PROVIDING FOR THE TRANSFER TO THE ADMINISTRATOR OF GENERAL SERVICES THE FUNCTIONS OF THE VARIOUS FEDERAL AGENCIES WITH RESPECT TO LEASING AND ASSIGNING GENERAL PURPOSE SPACE IN BUILDINGS AND THE OPERATION, MAINTENANCE, AND CUSTODY OF OFFICE BUILDINGS

MARCH 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 18 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. The plan transfers to the Administrator of General Services the functions of the various Federal agencies with respect to leasing and assigning general-purpose space in buildings and the operation, maintenance, and custody of office buildings. Since such authority is already largely concentrated in the General Services Administration with respect to the District of Columbia, the plan principally relates to the administration of these functions in the field.

The transfers made by this plan will promote more economical leasing, better utilization of building space, and more efficient operation of Government-controlled office buildings. They will effectuate the recommendations of the Commission on Organization of the Executive Branch of the Government with respect to concentrating in the General Services Administration the responsibility for space allotment and the operation of Government buildings outside of the District of Columbia. Likewise, they will extend the principles laid down by the Congress in enacting the Federal Property and Administrative Services Act of 1949 to another important area of Government-wide administrative services—the administration of Government office buildings and general-purpose building space in the field.

Within the District of Columbia, one agency, the Public Buildings Service of the General Services Administration, has long had the operation and custody of most Government buildings and the leasing and assignment of space for executive agencies. Thus, nearly all requests for building space are handled by a single organization which is responsible for seeing that agencies are properly and efficiently housed. This arrangement has proved its worth and has repeatedly been approved by the Congress.

Outside of the National Capital, however, responsibility for the acquisition and control of building space and the operation of Government buildings is widely diffused. A variety of agencies operate and control general-purpose buildings. If quarters are not available in Federal buildings, each agency ordinarily does its own leasing. As a result, in some cases Federal agencies have contracted for space at high rentals at the very time that other agencies have been giving up surplus low-cost space.

The assignment of space in Government-owned buildings outside of Washington is also divided among a number of agencies. While the Public Buildings Service constructs a large part of the Government buildings, it operates and controls the assignment of space in only a small proportion of them. The Post Office Department operates and allocates the space in post-office buildings, several hundred of which contain substantial amounts of office space available for other agencies. During and immediately after the war several other Federal agencies acquired office buildings in the field. As their activities have contracted, surplus space in many of these structures has become available for other uses.

This plan concentrates in the General Services Administration the responsibility for the leasing and assignment of what is termed general-purpose building space; that is, space which is suitable for the uses of a number of Federal agencies. It specifically excludes space in buildings at military posts, arsenals, navy yards, and similar defense installations and space in hospitals, laboratories, factories, and other special-purpose buildings.

Also, the plan excludes the Post Office Department from the transfer of leasing authority since the Department has a highly developed organization for this purpose, and it limits the transfer of space assignment authority in post-office buildings to the space not occupied by the Department. Further, it gives the needs of the Post Office Department priority in the assignment of space in post-office buildings. Thus, the plan amply safeguards the interests of the Post Office Department while making it possible to include the general office space in post-office buildings in any given city with other similar space under Federal control in planning and executing an efficient program for housing Government agencies in that area.

In addition, the plan transfers to the General Services Administration the operation, maintenance, and custody of office buildings owned or leased by the Government, including those post-office buildings which are not used predominantly for post-office purposes. This will make it possible to establish a single organization for the operation and maintenance of Government office buildings in principal cities in the field as has proved desirable in the National Capital. Since many post offices are in fact primarily large office buildings, the plan includes in this transfer the post-office buildings which are not

used predominantly for post-office purposes. This will relieve the Post Office Department of a considerable expenditure for building operation and maintenance which properly should not be charged against postal revenues.

While the plan effects a broad transfer of functions with respect to leasing and assignment of space and the operation and maintenance of office buildings, it specifically authorizes the Administrator of General Services to delegate the performance of any part of these functions to other agencies subject to such regulations as he deems desirable for economical and effective administration. In this the plan follows the pattern adopted by the Federal Property and Administrative Services Act of 1949 for other branches of property management. In large urban centers where numerous Federal units are located unified administration of space activities by the General Services Administration will normally be advantageous. On the other hand, in the smaller communities it will no doubt be desirable to delegate the work back to the agencies directly affected, to be carried on under standards laid down by the Administrator of General Services. The plan provides ample flexibility for working out the most effective administrative arrangement for each type of situation.

The fundamental soundness and economy of centralized administration of building space have been amply demonstrated in the National Capital. By virtue of unified control it has been possible since the war to accomplish far-reaching changes which have consolidated agencies in much fewer locations, released many of the rented buildings, and greatly reduced the cost of housing the Government establishment. Similar procedures applied in the larger centers of field activity should produce substantial savings.

After investigation, I have found, and hereby declare, that each reorganization contained in this plan is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

While it is not possible at this time to calculate the reduction in expenditures which will result from this plan, it can safely be predicted that it will produce substantial savings. I am confident that this reorganization plan will constitute a significant improvement in Federal business practice and will bring about an important increase in efficiency in housing Government agencies.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 18 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

BUILDING AND SPACE MANAGEMENT FUNCTIONS

SECTION 1. *Transfer of space assignment and leasing functions.*—All functions with respect to acquiring space in buildings by lease, and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and

space in Government-owned buildings), are hereby transferred from the respective agencies in which such functions are now vested to the Administrator of General Services, exclusive, however, of all such functions with respect to—

(a) space in buildings located in any foreign country;

(b) space in buildings which are located on the grounds of any fort, camp, post, arsenal, Navy yard, naval training station, airfield, proving ground, military supply depot, or school, or of any similar facility, of the Department of Defense, unless and to such extent as a permit for its use shall have been issued by the Secretary of Defense or his duly authorized representative;

(c) space occupied by the Post Office Department in post-office buildings and space acquired by lease for post-office purposes; and

(d) space in other Government-owned buildings which the Administrator of General Services finds are wholly or predominantly utilized for the special purposes of the agency having the custody thereof and are not generally suitable for the use of other agencies (including but not limited to hospitals, housing, laboratories, mints, manufacturing plants, and penal institutions), and space acquired by lease for any such purpose:

Provided, That the space needs of the Post Office Department shall be given priority in the assignment and reassignment of space in post office buildings.

SEC. 2. *Transfer of office building management functions.*—All functions with respect to the operation, maintenance, and custody of office buildings owned by the Government and of office buildings or parts thereof acquired by lease, including those post-office buildings which, as determined by the Director of the Bureau of the Budget, are not used predominantly for post-office purposes, are hereby transferred from the respective agencies in which now vested to the Administrator of General Services, exclusive, however, of all such functions with respect to—

(a) any building located in any foreign country;

(b) any building located on the grounds of any fort, camp, post, arsenal, navy yard, naval training station, air field, proving ground, military supply depot, or school, or of any similar facility, of the Department of Defense, unless and to such extent as a permit for its use by another agency or agencies shall have been issued by the Secretary of Defense or his duly authorized representative;

(c) any building which the Administrator of General Services finds to be a part of a group of buildings which are (1) located in the same vicinity, (2) are utilized wholly or predominantly for the special purposes of the agency having custody thereof, and (3) are not generally suitable for the use of other agencies; and

(d) the Treasury Building, the Bureau of Engraving and Printing Building, the buildings occupied by the National Bureau of Standards, and the buildings under the jurisdiction of the regents of the Smithsonian Institution.

SEC. 3. *Performance of transferred functions.*—(a) The Administrator of General Services may from time to time make such provisions as he shall deem appropriate authorizing the performance by any

other officer, or by any agency or employee, of the General Services Administration of any function transferred to such Administrator by the provisions of this reorganization plan.

(b) When authorized by the Administrator of General Services, any function transferred to him by the provisions of this reorganization plan may be performed by the head of any agency of the executive branch of the Government or, subject to the direction and control of any such agency head, by such officers, employees, and organizational units under the jurisdiction of such agency head as such agency head may designate: *Provided*, That functions with respect to post-office buildings shall not be delegated under the authority of this subsection to the head of any agency other than the Postmaster General.

(c) The Administrator of General Services shall prescribe such regulations as he deems desirable for the economical and effective performance of the functions transferred by the provisions of this reorganization plan.

SEC. 4. *Transfer of personnel, property, records, and funds.*—There shall be transferred from time to time, between the agencies concerned and for use in connection with the functions transferred by the provisions of this reorganization plan, so much of the personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds, relating to such functions, as may be necessary for the performance of said functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

SEC. 5. *Effective date.*—The provisions of this reorganization plan shall take effect on the 1st day of July 1950.

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81ST CONGRESS
2D SESSION

H. RES. 541

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 1950

Mr. HAGEN submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the House does not favor the Reorganization Plan Numbered 18 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

H. RES. 541

RESOLUTION

In opposition to Reorganization Plan Numbered 18 of 1950.

By Mr. HAGEN

APRIL 5, 1950

Referred to the Committee on Expenditures in the Executive Departments

81ST CONGRESS
2D SESSION

H. RES. 539

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 1950

Mr. CROOK submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the House of Representatives disapproves the Reorganization Plan Numbered 18 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

H. RES. 539

RESOLUTION

Rejecting Reorganization Plan Numbered 18 of 1950.

By Mr. CROOK

APRIL 5, 1950

Referred to the Committee on Expenditures in the Executive Departments

81st Congress } HOUSE OF REPRESENTATIVES { Report
2d Session } { No. 1947

REORGANIZATION PLAN NO. 18 OF 1950

April 25, 1950.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Dawson, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany H. Res. 539

The Committee on Expenditures in the Executive Departments, to whom was referred the resolution (H. Res. 539, companion resolution to H. Res. 541) rejecting Reorganization Plan No. 18 of 1950, having considered the same, report unfavorably thereon without amendment and recommend that the resolution do not pass.

General Statement

The intent of House Resolution 539 (companion to H. Res. 541) is to express disapproval of Reorganization Plan No. 18 of 1950, transmitted to the Congress by the President on the 13th day of March 1950, and the effect of the adoption of this resolution by the Congress will be to prevent such plan from coming into force and effect on May 12, 1950, mindful, however, that under section 6 (b) (2) of the Reorganization Act of 1949 (Public Law 109, 81st Cong.), that from the 60-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain.

The scope and the effect of the reorganization plan, in the absence of a disapproval by a House resolution, are set forth in the plan in the following words and figures:

BUILDING AND SPACE MANAGEMENT FUNCTIONS

Section 1. *Transfer of space assignment and leasing functions.*—All functions with respect to acquiring space in buildings by lease, and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in Government-owned buildings), are hereby transferred from the respective agencies in which such functions are now vested to the Administrator of General Services, exclusive, however, of all such functions with respect to—

(a) space in buildings located in any foreign country;

(b) space in buildings which are located on the grounds of any fort, camp post, arsenal, Navy yard, naval training station, airfield, proving ground military supply depot, or school, or of any similar facility, of the Department of Defense, unless and to such extent as a permit for its use shall have been issued by the Secretary of Defense or his duly authorized representative;

(c) space occupied by the Post Office Department in post-office building and space acquired by lease for post-office purposes; and

(d) space in other Government-owned buildings which the Administrator of General Services finds are wholly or predominantly utilized for the special purposes of the agency having the custody thereof and are not generally suitable for the use of other agencies (including but not limited to hospitals, housing, laboratories, mints, manufacturing plants, and penal institutions) and space acquired by lease for any such purpose:

Provided, That the space needs of the Post Office Department shall be given priority in the assignment and reassignment of space in post-office buildings.

SEC. 2. *Transfer of office building management functions.*—All functions with respect to the operation, maintenance, and custody of office buildings owned by the Government and of office buildings or parts thereof acquired by lease, including those post-office buildings which, as determined by the Director of the Bureau of the Budget, are not used predominantly for post-office purposes, are hereby transferred from the respective agencies in which now vested to the Administrator of General Services, exclusive, however, of all such functions with respect to—

(a) any building located in any foreign country;

(b) any building located on the grounds of any fort, camp, post, arsenal, navy yard, naval training station, air field, proving ground, military supply depot, or school, or of any similar facility, of the Department of Defense unless and to such extent as a permit for its use by another agency or agencies shall have been issued by the Secretary of Defense or his duly authorized representative;

(c) any building which the Administrator of General Services finds to be a part of a group of buildings which are (1) located in the same vicinity (2) are utilized wholly or predominantly for the special purposes of the agency having custody thereof, and (3) are not generally suitable for the use of other agencies; and

(d) the Treasury Building, the Bureau of Engraving and Printing Building, the buildings occupied by the National Bureau of Standards, and the building under the jurisdiction of the regents of the Smithsonian Institution.

SEC. 3. *Performance of transferred functions.*—(a) The Administrator of General Services may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee of the General Services Administration of any function transferred to such Administrator by the provisions of this reorganization plan.

(b) When authorized by the Administrator of General Services, any function transferred to him by the provisions of this reorganization plan may be performed by the head of any agency of the executive branch of the Government or, subject to the direction and control of any such agency head, by such officers, employees and organizational units under the jurisdiction of such agency head as such agency head may designate: *Provided*, That functions with respect to post-office buildings shall not be delegated under the authority of this subsection to the head of any agency other than the Postmaster General.

(c) The Administrator of General Services shall prescribe such regulations as he deems desirable for the economical and effective performance of the functions transferred by the provisions of this reorganization plan.

SEC. 4. *Transfer of personnel, property, records, and funds.*—There shall be transferred from time to time, between the agencies concerned and for use in connection with the functions transferred by the provisions of this reorganization plan, so much of the personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds, relating to such functions, as may be necessary for the performance of said functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

SEC. 5. *Effective date.*—The provisions of this reorganization plan shall take effect on the 1st day of July 1950.

Section-by-section Analysis

Reorganization Plan No. 18 of 1950 transfers to the Administrator of General Services the functions of the various Federal agencies with respect to leasing and assigning general-purpose space in buildings, and the operation, maintenance and custody of office buildings.

Section 1. *Transfer of space assignment and leasing functions.*—There is transferred by force of this section to the Administrator of General Services all functions involving acquisition of space in buildings by lease, and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in Government-owned buildings). All these functions are hereby transferred from the respective agencies in which such functions are presently vested to the Administrator of General Services; however, certain types of space are specifically excluded from the foregoing transfers of functions and not contemplated as within the purview of this reorganization plan.

These excluded functions are cited as—

(a) space in buildings located in any foreign country;

(b) space in buildings which are located on the grounds of any fort, camp, post, arsenal, Navy yard, naval training station, airfield, proving ground, military supply depot, or school, or of any similar facility, of the Department of Defense, unless and to such extent as a permit for its use shall have been issued by the Secretary of Defense or his duly authorized representative;

(c) space occupied by the Post Office Department in post-office buildings and space acquired by lease for post-office purposes; and

(d) space in other Government-owned buildings which the Administrator of General Services finds are wholly or predominantly utilized for the special purposes of the agency having the custody thereof and are not generally suitable for the use of other agencies (including but not limited to hospitals, housing, laboratories, mints, manufacturing plants, and penal institutions) and space acquired by lease for any such purpose:

Provided, That the space needs of the Post Office Department shall be given priority in the assignment and reassignment of space in post-office buildings.

Section 2. *Transfer of office building management functions.*—All functions with respect to the operation, maintenance, and custody of office buildings owned by the Government and of office buildings or parts thereof acquired by lease, including those post-office buildings which, as determined by the Director of the Bureau of the Budget, are not used predominantly for post-office purposes, are hereby transferred from the respective agencies in which now vested to the Administrator of General Services, exclusive, however, of all such functions with respect to—

(a) any building located in any foreign country;

(b) any building located on the grounds of any fort, camp, post, arsenal, Navy yard, naval training station, air field, proving ground, military supply depot, or school, or of any similar facility, of the Department of Defense, unless and to such extent as a permit for its use by another agency or agencies shall have been issued by the Secretary of Defense or his duly authorized representative;

(c) any building which the Administrator of General Services finds to be a part of a group of buildings which are (1) located in the same vicinity, (2) are utilized wholly or predominantly for the special purposes of the agency having custody thereof, and (3) are not generally suitable for the use of other agencies; and

(d) the Treasury Building, the Bureau of Engraving and Printing Building, the buildings occupied by the National Bureau of Standards, and the buildings under the jurisdiction of the regents of the Smithsonian Institution.

In the foregoing subsection (d) a number of buildings are set out which are located in the District of Columbia.

Section 3. *Performance of transferred functions.*—(a) The Administrator of General Services may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the General Services Administration of any function transferred to such Administrator by the provisions of this reorganization plan. This section vests the Administrator of General Services with the proper delegative powers to authorize any other officer, agency or employee of the General Services Administration to perform any function vested in the Administrator by Reorganization Plan No. 18. This is a definition and empowerment for intra-agency delegation.

(*b*) When authorized by the Administrator of General Services, any function transferred to him by the provisions of this reorganization plan may be performed by the head of any agency of the executive branch of the Government or, subject to the direction and control of any such agency head, by such officers, employees, and organizational units under the jurisdiction of such agency head as such agency head may designate: This contemplates interagency delegation, when authorized by the Administrator of General Services. In this fashion the Administrator may delegate under this section in the interest of better effectment of the objectives of this reorganization plan; the proviso contained in this section does not permit the Administrator of General Services, however, to delegate the functions with respect to post-office buildings to any other agency head than the Postmaster General.

(c) This subsection gives the Administrator of General Services the necessary authority to prescribe regulations which he deems desirable for the economical and effective performance of the functions transferred by the provisions of this reorganization plan. In this way the Administrator of General Services can achieve uniformity of approach in the discharge of his many duties and responsibilities, and these regulations will have force and effect not only within his own Administration, but within the provinces of jurisdiction conferred by the provisions of this reorganization plan.

Section 4. *Transfer of personnel, property, records, and funds.*—There shall be transferred from time to time, between the agencies concerned and for use in connection with the functions transferred by the provisions of this reorganization plan, so much of the personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds, relating to such functions, as may be necessary for the performance of said functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

Section 5. *Effective date.*—The provisions of this reorganization plan shall take effect on the 1st day of July 1950.

Addendum

The hearings on the content of this reorganization plan have served a twofold purpose: (*a*) they have provided an excellent means for analysis and evaluation of the cardinal features of plan No. 18, i. e., the opportunities for increased efficiency and substantial economy in space control, leasing operations, maintenance, and custody of Government office buildings; (*b*) it has also afforded a means of exploring the incidental feature of the status of transferred personnel.

Your committee has received many statements, telegrams, and letters offering constructive observations in regard to the many phases touched on in this legislation. Insofar as practicable and consistent with committee policy and economy, these comments and filed statements will be incorporated in the record of the hearings. During the deliberations of your committee many witnesses appeared both in favor of and in opposition to Reorganization Plan No. 18. The interrogatories and colloquies, which were predicated upon the statements and comments of appearing witnesses, furnished many excellent opportunities for a careful consideration of this beneficial reorganization.

The principles upon which plan No. 18 is founded are in conformity with pertinent recommendations of the Commission on Organization of the Executive Branch of the Government. It is a further and logical step in the implementation of the servicing of the needs of executive agencies, recognized by the Congress when it enacted the Federal Property and Administrative Services Act of 1949. Thus another important area of Government-wide administrative services has been added to the General Services Administration, namely, the administration of Government office buildings and general-purpose buildings space in the field.

After a careful study of the filed statements, testimony of witnesses, and expressions from the policy-making officials of the Bureau of the Budget, Post Office and General Services Administration, when added to the opportunities presented the members of your committee for full exploration of the plan in the light of past legislative experience in these fields, and the contemplated betterment in governmental services and status of transferred personnel, there was developed the necessary and substantive information which has guided your Committee in reaching the conclusion to reject House Resolution 539.

Purpose of Reorganization Plan No. 18

The purpose of Reorganization Plan No. 18 is, in general, to transfer to the Administrator of General Services the functions of the various Federal agencies, which involve leasing and assignment of general purpose space in buildings, and the operation, maintenance, and custody of office buildings. Safeguarding restrictions are placed upon the Administrator of General Services in dealing with certain excluded special-purpose buildings. Also, appropriate delegative powers with clearly defined provisos have been spelled out for the guidance of the Administrator of General Services.

The Commission on Organization of the Executive Branch of the Government, after a detailed study, recommended the objectives which this plan is designed to achieve. In its Report on General Management

and in its Report on the Office of General Services, the Commission on Organization accentuated the compelling necessity for, and sound business management principles inherent in proper utilization of space and leasing requirements of the Federal Government. Proper control, utilization, and management of space and buildings used by the Federal Government can prove one of the most fruitful avenues in governmental operations for reduction of expenditures and returns in substantial savings.

Reorganization Plan No. 18, as has been demonstrated, specifically coincides with the recommendations of the Commission on Organization. The adoption of this plan by the Congress will furnish further evidence of the attainment of the desired goal of increased efficiency and economy in Government operations. In addition, it marks a further girding of appropriate functions in the General Services Administration. In short, it was shown the operations contemplated under plan No. 18, have already been concentrated in the General Services Administration with respect to the District of Columbia, and the success of the program there has underwritten this legislation. Thus will be seen the meritorious extension of administration of these functions to the field lying outside of the District of Columbia.

Origin and Mission of the General Services Administration

For a better understanding of the agency principally involved in the workings of this reorganization, mention should be made of the origin of the General Services Administration. In conformity with the recommendations made by the Commission on Organization, in its report on an Office of General Services, the Eighty-first Congress during its first session, enacted Public Law 152, which created the General Services Administration. This new agency was created out of War Assets Administration, Federal Works Agency, Bureau of Federal Supply, Archives, and contract settlement functions of the Treasury Department, and represents one of the greatest consolidations in the history of government. General Services Administration is charged with responsibilities in procurement and supply, property management, utilization and disposal, together with traffic management and records management. The primary task of this agency is the servicing of the needs of other executive agencies. Reorganization Plan No. 18, another recommendation of the Commission on Organization would accordingly implement and round out the task assigned to the General Services Administration by the Congress.

Basis for Reorganization Plan No. 18

THE RECOMMENDATIONS ON GENERAL MANAGEMENT, COMMISSION ON ORGANIZATION OF THE EXECUTIVE BRANCH

In support of this plan reference is made to the Public Buildings Administration, which now is a constituent arm of the General Services Administration. Your committee recites the following of interest from the Commission on Organization's pertinent report on General Management:

Recommendation No. 26 (p. 44):

The responsibility now vested in the Public Buildings Administration for providing certain types of space necessary to meet the field requirements of Federal agencies should be expanded.

* * * * * * *

RECOMMENDATIONS IN REPORT ON OFFICE OF GENERAL SERVICES

Recommendation No. 3 (p. 5):

That the the operation and maintenance of public buildings should be placed in the Office of General Services. (Latter now termed General Services Administration, enacted as Public Law 152, 81st Cong).

The Commission on Organization of the Executive Branch of the Government was vitally interested in this phase of their governmental studies, since they recognized that space control, proper space utilization, and building management and operation, were interwoven with the problems of records management.[1] Each of these factors they perceived as interdependent and highly productive of efficiency and economy.

In view of this, it would be well to quote the following comments and Recommendation No. 6 of the Commission on Organization in the Report on General Services.

OPERATION AND MAINTENANCE OF PUBLIC BUILDINGS

Maintenance of buildings, allotment of space, and moving service in the District of Columbia and in some selected cities would be the responsibility of the third bureau in the Office of the General Services. Its work thus relates to all departments and agencies. It has the management of over 54,000,000 gross square feet of Government-owned space and over 6,000,000 gross square feet of leased space, of which 24,000,000 square feet are outside the District of Columbia.

It is not proposed that space allotment in the post offices and the National Military Establishment should be made by this agency although servicing by this agency of the buildings occupied by the post office and the Military Establishment is desirable. In any event, close cooperative arrangements should be established between this agency, the Post Office Department, and the National Military Establishment.

It is essential in these matters that authority be expanded and that there be a central agency (*a*) to prepare and issue standards of efficiency in the management of public buildings; (*b*) to supervise space allotments in Government buildings in towns where there are several large agencies (except in buildings of the National Military Establishment and the Post Office Department with which cooperative arrangements should be established);[1] (*c*) to maintain and operate Government buildings; (*d*) to prepare standard forms of leases and deeds and maintain a record of leases and buildings owned by the Government.

Recommendation No. 6 (pp. 10–11):

The Commission recommends that the administration of the functions enumerated * * * be placed in the Office of General Services * * * but it expresses no opinion as to design and construction of buildings, and other functions of the Public Buildings Administration.

The Practicability of Reorganization Plan No. 18

Since this plan transfers to the Administrator of General Services the functions of the various Federal agencies with respect to leasing and assigning general purpose space in buildings and the operation,

[1] Commission on Organization Report on Office of General Services (Records Management) (p. 6). "The maintenance of records costs the Federal Government enormous sums annually. The records now in existence would fill approximately six buildings each the size of the Pentagon.

"In 1948, some 18,000,000 square feet of space were filled with records our task force estimates that, on the basis of rental value alone, the space cost for this volume of records is at least $20,000,000 annually. The filing equipment for handling these papers would alone be worth 154 million at current prices."

maintenance, and custody of office buildings, the dual aspect of the plan is easily discernible. The two beneficial results to be obtained are (*a*) promotion of more economical leasing and better utilization of building space; and (*b*) a more efficient operation of Government controlled office buildings.

(*a*) *Promotion of more economical leasing and better utilization of building space*

Reorganization Plan No. 18 centralizes in the General Services Administration the responsibility for the leasing and assignment of general purpose building space; this latter may be defined as space which is suitable for the uses of a number of Federal agencies. The plan specifically excludes various defense installations, space in hospitals, and other special-purpose buildings. Within the District of Columbia, one agency, the Public Buildings Service of the General Services Administration, has had the leasing and assignment of space for executive agencies in most Government buildings. This single organization has thus been the channel for requests for building space from all the executive agencies in that area. It has ably discharged its responsibilities to properly and efficiently house agencies so located. This arrangement has proved to be of merit and has repeatedly been approved by the Congress.

Outside the District of Columbia there has been no centralized responsibility for the acquisition and control of building space. In this matter there has been a wide diffusion of approach among the many governmental agencies. A great number of agencies operate and control general-purpose buildings. Where quarters are not available in Federal buildings each agency has been doing its own leasing. There have been many instances where Federal agencies have contracted for space at high rentals in private business buildings at the very time other agencies have been surrendering surplus low-cost space in private or Government controlled buildings. It can be said there has been no clearing house of information to coordinate this data and render it available to executive agencies desiring it. This diffusion of optimum activities and absence of integrated information has not been productive of governmental economy or efficiency.

In this vein the Post Office Department operates and allocates space in post-office buildings, more than 600 of which contain substantial amounts of office space available for other agencies. In addition, during and immediately after the war many other Federal agencies acquired office buildings in the field. As their activities have contracted, however, surplus space in many of these structures has become available for other uses.

Also, the plan excludes the Post Office Department from the transfer of leasing authority since the Department has a highly developed organization for this purpose, and it limits the transfer of space assignment authority in post-office buildings to the space not occupied by the Department. Further, it gives the needs of the Post Office Department priority in the assignment of space in post-office buildings. Thus, the plan amply safeguards the interests of the Post Office Department, while making it possible to add the general office space in post-office buildings in many cities to other similar space under Federal control for planning and executing an efficient program of housing Government agencies in these localities.

Thus, unified control will make possible improvements in space administration which should save money in a number of ways:

(1) By permitting the leasing of entire buildings and large blocks of space instead of numerous small units.

(2) By eliminating competition among Federal agencies for leased space, which tends to drive up rental rates. At present as many as 20 or 30 different agencies are leasing space in some of the larger cities.

(3) By concentrating leasing in the hands of specialists who know the local real-estate market and are experienced in negotiating leases.

(4) By permitting the establishment of definite standards of space utilization and requiring agencies to justify their space requests before persons who are qualified to judge the reasonableness of the requests.

(5) By preventing agencies from entering into leases at high costs when suitable space is, or is about to become, available in Government-owned buildings or in lower cost leased buildings.

(6) By permitting the use of 5-year leases instead of annual leases where the condition of the rental market warrants. Better terms can usually be obtained on long-term leases. But, whereas, it might not be wise for the average agency to bind itself for more than 1 year because of uncertainties as to its future needs, a central leasing agency can safely enter into long-term leases on a large part of its space.

(*b*) *More efficient operation of Government-controlled office buildings.*

In the Washington locale, in the operation, maintenance, and custody of office buildings owned or leased by the Government for the use of executive agencies, the Public Buildings Service of the General Services Administration has been for a long time the responsible party in carrying out this phase. In the accomplishment of these duties and responsibilities the Public Buildings Service has performed in a highly efficient manner and with appreciable economies. However, outside the District of Columbia the operation, maintenance, and custody of the Government buildings has been scattered among the executive agencies. The standards of efficiency and economy have been prejudiced by a lack of centralization of program and approach. Under Reorganization Plan No. 18 the operation, maintenance, and custody of office buildings owned or leased by the Federal Government, including those post-office buildings which are not used predominantly for post-office purposes will pass to the General Services Administrator. In this manner there will be established a single organization charged with the responsibility for the operation and maintenance of Government office buildings in the principal cities in the field. The desirability of this is emphasized by the favorable results obtained in similar circumstances in the National Capital. Testimony on the part of responsible officials of the Bureau of the Budget, Post Office Department, and General Services Administration indicate that the maximum number of buildings to be so operated under this plan is not conceivably in excess of 250 units. In the many principal cities throughout the country post offices are in fact primarily large office buildings, with space utilized by many other Federal agencies. This has led to terming many of these buildings Federal Buildings. Again

it should be stressed that no building predominantly used for post-office purposes is affected by this reorganization plan.

In order that it may be understood that this plan is a cooperative venture of the Bureau of the Budget, General Services Administration, and Post Office Department, it would be well to direct attention to the fact that operation, maintenance, and custody of these multiple-use buildings will only be transferred where greater efficiency and improved economy can be obtained. In this light your committee quotes from the message from the President of the United States, accompanying Reorganization Plan No. 18, March 13, 1950:

> While the plan effects a broad transfer of functions with respect to leasing and assignment of space and the operation and maintenance of office buildings, it specifically authorizes the Administrator of General Services to delegate the performance of any part of these functions to other agencies subject to such regulations as he deems desirable for economical and effective administration. In this the plan follows the pattern adopted by the Federal Property and Administrative Services Act of 1949 for other branches of property management. In large urban centers where numerous Federal units are located, unified administration of space activities by the General Services Administration will normally be advantageous. On the other hand, in the smaller communities it will no doubt be desirable to delegate the work back to the agencies directly affected, to be carried on under standards laid down by the Administrator of General Services. The plan provides ample flexibility for working out the most effective administrative arrangement for each type of situation.

The position of the Post Office Department was ably projected in the statement of Mr. Vincent Burke, Deputy Postmaster General, when he testified that—

> Insofar as the Post Office Department is concerned, we are anxious to rid ourselves of every obligation that is not an actual postal obligation. Each year it becomes increasingly difficult for the Postmaster General to convince all elements of society, or even one, of the reasons for the huge deficit in the operation of the postal service.
>
> For that reason solely we would be anxious in the Post Office Department to be relieved of any costs that are not strictly and specifically costs properly chargeable to the postal service.

Much testimony was heard in the course of our meetings calling attention to the status of personnel transferred from the Post Office Department and other affected agencies to the General Services Administration as a result of this reorganization plan. In view of the interest expressed by many Members of the Congress and the concern voiced by various individuals and Government employee union organizations, it has been deemed advisable that a memorandum be filed taking up this incidental phase of Reorganization Plan No. 18.[1] It is all-important that the concept of this reorganization be kept in focus and that the proper emphasis be placed upon the major goals to be achieved under it. The keystone factors involved are space control and leasing operations. Flowing from these essentials are the goals for operation, maintenance, and custody of buildings acquired. Many avenues for substantial savings and a reduction of governmental operational costs are demonstrated in this plan. A unified control of space reflected in consolidation of location of agencies, with an inevitable release of space rented in private buildings, can lend itself to a decided lowering of the cost of housing of the agencies of the executive branch. The desirable results obtaining in the District of Columbia augur well for their extension to the agencies in the field.

[1] House Committee on Expenditures in the Executive Departments, 81st Cong., 2d sess., Status of Personnel Transferred Under Reorganization Plan No. 18—a Memorandum.

In these days of reorganization in the executive branch, many voices have been raised to insist upon a realignment of the functions and structures of the executive agencies so that every citizen may be afforded a more accurate appraisal of the costs of our Government. Under Reorganization Plan No. 18 the Post Office Department will take a big step in this direction when it is relieved of considerable expenditure for building operation, maintenance and custody of nonpostal space. The cost of these operations will no longer be charged against postal revenues. In this way the postal budget will reflect more accurately the costs of operation of that Department, unburdened by unrelated responsibilities and services. The General Services Administration, too, as a service organization, will be enabled to better fulfill its mission and permit its budget to mirror the cost for services extended to the other agencies of the executive branch.

Lastly, in gauging the possibilities for efficiency and economy under this reorganization plan, there must be an evaluation of the entire operational program contemplated rather than by concentration of exclusive attention on any one phase.

Conclusions: A Summary

This reorganization plan transfers to the Administrator of General Services the functions of the various Federal agencies with respect to leasing and assignment of general purpose space and buildings, and the operation, maintenance, and custody of office buildings. The authority contemplated under this plan already reposes in the General Services Administration with respect to the District of Columbia and the effect of this reorganization principally relates to the extension to the field administration of the program demonstrated to be successful in the District of Columbia.

The Commission on Organization recommended the creation of a service agency. The Eighty-first Congress carried out this recommendation in establishing the General Services Administration. This plan would further implement the General Services Administration in the accomplishment of its mission by adding to its functions the administration of Government office buildings and general-purpose building space in the field. These latter factors are also recommended by the Commission on Organization of the Executive Branch of the Government. They will have for their purpose the centralizing of responsibility for space allotment, leasing, and operations of Government buildings outside of the District of Columbia. Space control, leasing, and operation maintenance and custody outside of Washington are scattered among a number of agencies. Among other executive agencies, the Post Office for instance, operates and allocates space in post-office buildings with many such buildings containing substantial amounts of office space available or utilized by other Federal agencies. It is contemplated under the plan that the General Services Administration will have the operation, maintenance, and custody, space control and leasing of Government controlled space, including those post-office buildings which are not used predominantly for post-office purposes. These buildings, testimony before your committee elicited, will not approximate in excess of 250 units and be principally located in the larger urban centers. In no case will a building predominantly occupied for post-office purposes be

affected by this reorganization plan. Another point which cannot be too strongly emphasized is that the General Services Administration, the Post Office Department together with the Bureau of the Budget, as the representative of all other executive agencies affected, are charged with the duty of continuous cooperation in the interest of proper effectuation of this reorganization.

The status of transferred personnel has been carefully studied and, in the opinion of your committee, personnel so transferred have been substantially protected in their rights, gain many advantages and benefits, and will not suffer appreciably from the changes contemplated by force of this plan.

Viewed in its proper focus, the elements of space control, leasing, operation, maintenance, and custody can produce substantial savings in the costs of operation of governmental services. Proper space utilization with its causal effect on records management, the stepping up of release of rented quarters, together with unified operations can produce a reduction in expenditures, a promotion in efficiency, and a more accurate reflection in agency appropriations, resulting in budget clarification.

Reorganization Plan No. 18 should be supported, and House Resolution 539 be rejected, because of the opportunity presented for increased efficiency and the substantial economy that can be effected through centralization of building operations, leasing and space control in an agency created for that purpose pursuant to the ably documented recommendations of the Commission on Organization of the Executive Branch of the Government.

○

Union Calendar No. 724

81ST CONGRESS
2D SESSION

H. RES. 539

[Report No. 1947]

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 1950

Mr. CROOK submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

APRIL 25, 1950

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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RESOLUTION

Resolved, That the House of Representatives disapproves the Reorganization Plan Numbered 18 of 1950 transmitted to Congress by the President on March 13, 1950.

Union Calendar No. 724

81ST CONGRESS
2D SESSION

H. RES. 539

[Report No. 1947]

RESOLUTION

Rejecting Reorganization Plan Numbered 18 of 1950.

By Mr. CROOK

APRIL 5, 1950

Referred to the Committee on Expenditures in the Executive Departments

APRIL 25, 1950

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

81ST CONGRESS
2D SESSION

S. RES. 270

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, MARCH 29), 1950

Mr. JOHNSTON of South Carolina (for himself, Mr. MCKELLAR, Mr. NEELY, Mr. FREAR, Mr. LEAHY, Mr. LANGER, Mr. THYE, Mr. ECTON, and Mr. DWORSHAK) submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 18 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 270

RESOLUTION

Disapproving Reorganization Plan Numbered 18 of 1950.

By Mr. JOHNSTON of South Carolina, Mr. MCKELLAR, Mr. NEELY, Mr. FREAR, Mr. LEAHY, Mr. LANGER, Mr. THYE, Mr. ECTON, and Mr. DWORSHAK

MAY 10 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

Calendar No. 1686

81st Congress, 2d Session — SENATE — Report No. 1675

REORGANIZATION PLAN NO. 18 OF 1950, BUILDING AND SPACE MANAGEMENT FUNCTIONS

May 18 (legislative day, March 29), 1950.—Ordered to be printed

Mr. McClellan, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany S. Res. 270]

The Committee on Expenditures in the Executive Departments, to whom was referred Senate Resolution 270, expressing disapproval of Reorganization Plan No. 18 of 1950, report the resolution without recommendation. The effect of the adoption of the resolution will be to prevent Reorganization Plan No. 18 of 1950 from becoming effective.

PURPOSE

The purpose of this plan [1] is to transfer to the Administrator of General Services the functions now vested in other agencies with respect to leasing and assigning general-purpose space in buildings, and the operation, maintenance, and custody of office buildings. This proposal is aimed primarily at centralizing the responsibility for leasing, maintenance, and control of office buildings outside of the District of Columbia.

Functions transferred

(*a*) Responsibility for leasing (except post offices), and assignment of general-purpose space from other agencies to the General Services Administration.

(*b*) Excess of space not needed by post offices to the General Services Administration.

(*c*) Operation, maintenance, and custody of leased and Government-owned buildings to the General Services Administration (excludes post-office buildings predominantly occupied by the postal service.)

Special-purpose buildings and functions excluded

(*a*) Military posts, arsenals, navy yards, hospitals, etc., and other special-purpose space, unless authorized by the Secretary of Defense.

[1] The full text of Reorganization Plan No. 18 of 1950 appears in appendix A.

(*b*) Post Office Department's leasing authority.

(*c*) Buildings located in foreign countries.

(*d*) Post Office building space used by it or leased for its purpose.

(*e*) Other Government space which GSA finds is wholly or predominantly used for special purposes, such as housing, manufacturing plants, penal institutions, etc.

(*f*) Treasury Building, Bureau of Engraving and Printing, buildings occupied by Bureau of Standards, and the Smithsonian Institution.

Priority

(*a*) The Post Office has priority in assignment of space in its buildings.

BACKGROUND

Under existing law the General Services Administration is responsible for leasing and allocating space, custody, maintenance, and repair of Government office buildings in the District of Columbia. The responsibility for performing these functions outside of the Washington metropolitan area is now vested in other departments and agencies of the Government. The President, in his message accompanying the plan, states that he believes centralizing these functions in a single agency will improve administration through the elimination of confusion, waste, and inefficiency, and effect considerable savings in space, maintenance, personnel, and funds. The plan classifies the functions outside of the District of Columbia into those that relate to general-purpose building space; that is, space which is suitable for use by a number of Federal agencies, and special-purpose space. Under the special-purpose classification is included buildings on military posts, arsenals, navy yards, hospitals, laboratories, factories, and other similar installations.

The assignment of space in Government-owned buildings outside of Washington is divided among many agencies. While the Public Building Service constructs a large part of the Government buildings, it operates and controls the assignment of space in only a small portion of them. The Post Office Department operates and allocates the space in post-office buildings, several hundred of which contain substantial amounts of office space available for other agencies. During and immediately after the war several other Federal agencies acquired office buildings in the field. As their activities diminished, surplus space in many of these structures became available for other use. Since there was no central clearing house available in the field to equitably allocate the space, excessive space was occupied by some agencies or it remained unoccupied, while others were going into the open market to procure high-cost space to meet their requirements.

This plan excluded the leasing functions now vested in the Post Office Department and such space which is used by that Department for postal service. This exclusion is intended to safeguard the interest of the Post Office Department by giving it priority on all space under its jurisdiction, while at the same time making it possible to release such space as is in excess of its needs. In other words, if a postal building is predominantly used by that Department its custody and control would remain under the Department; but, if only a portion of the building is used for the postal service, the remainder of the building would be allocated to the General Services Administration for

assignment, maintenance, and upkeep. Under this arrangement it is anticipated that insofar as the cost of operating the postal system is concerned a reduction will be made because these nonpostal expenses are now charged against postal revenues.

A recent survey conducted by the Public Buildings Service of the General Services Administration shows that as of September 30, 1949, 11,088,000 square feet of Government-owned office space outside of the District of Columbia was under the control of various agencies, representing approximately 58 percent of the total space in field offices. In addition, the Government leased over 11,000,000 square feet of space now under the control of various agencies. This represents over 54 percent of the total space leased by the Government. A tabulation of space in the postal buildings located in major cities throughout the country shows that, of the total space available, from 51 percent to 90 percent is now used for nonpostal purposes. Under this plan, the space which is excess to the needs of the post offices would be transferred to the General Services Administration.

SUMMARY

(*a*) Approval of this plan will make possible better utilization of Government space, reduction in personnel, appropriations, and space requirements.

(*b*) Centralized control should reduce confusion and facilitate coordination of the Government's space requirements with proper centralized administration responsibility.

(*c*) The plan is in accord with the spirit and intent of the Federal Property and Administrative Services Act of 1949.

HOOVER COMMISSION RECOMMENDATIONS

This plan is in conformance with the Hoover Commission's recommendation No. 6 on Office of General Services (pp. 10–11, Rept. No. 3).

The committee held hearings on the subject resolution on Tuesday, May 16, at which the following witnesses appeared in opposition to the resolution: Charles Stauffacher, Assistant Director, Bureau of the Budget; Vincent Burke, Acting Postmaster General, Post Office Department; Jess Larson, Administrator of General Services Administration; W. E. Reynolds, Commissioner of Public Buildings, Public Buildings Administration; and Ismar Baruch, Chief, Personnel Classification Division, Civil Service Commission.

Witnesses appearing in support of the resolution of disapproval included Senator Olin D. Johnston, of South Carolina, and chairman of the Senate Committee on Post Office and Civil Service, who represented the entire membership of that committee; Ross A. Messer, legislative representative, National Association of Post Office Maintenance Employees; Jesse V. Horton, first vice president, National Association of Postal Supervisors; R. M. Lovelady, legislative representative, American Federation of Government Employees; and Thomas G. Walters, operations director, Government Employees Council, American Federation of Labor.

Witnesses who testified in favor of the resolution of disapproval maintained that the plan should be rejected for the following reasons: (1) Employees transferred to the General Services Administration from

the Post Office Department would receive reductions in pay ranging from $20 to $740 per annum; (2) such employees would lose all accumulated sick leave in excess of 90 days; (3) would hereafter be prohibited from accumulating sick leave in excess of 90 days; and (4) would lose many of their longevity benefits.

Since this plan was submitted to Congress the Civil Service Commission issued two regulations designed to overcome these objections. The first order, issued April 1, 1950, provides in part that so long as the employees remain in the same position no reduction in pay will be made, and that such employees as are transferred from a postal grade which is less than the minimum comparable grade of the classified civil service, he would be increased to the minimum, with no reductions in pay. Another regulation, issued April 5, 1950, provides that when employees are transferred from the postal service to any other branch of Government because of a transfer of functions authorized by law and whose sick leave is different from that authorized by the Classification Act of 1949, such employees may transfer a maximum of 90 days accrued sick leave. Accumulated annual leave would be paid to such employed.[2]

On April 5, 1950, House Resolutions 539 and 541 were introduced in the House of Representatives to disapprove Reorganization Plan No. 18 of 1950. Extensive hearings were held on these resolutions, at which numerous witnesses testified for and against the plan. The committee rejected the resolutions by an overwhelming vote. It was revealed during the hearings that if this plan became effective postal maintenance and custodial employees who are transferred to GSA would receive the following benefits:

(*a*) Increase of annual leave from 15 to 26 days per annum.

(*b*) Increase of sick leave from 10 to 15 days per annum.

(*c*) Employees under the Classification Act of 1949 reach the maximum grade by in-grade promotion in 9 years instead of 15 years as is required under the Postal Classification Act.

(*d*) Employees transferred will be paid in cash for their accrued annual leave.

Postal employees affected by the plan supported the resolution for the following reasons:

(1) Federal post-office buildings throughout the country were designed primarily for post-office purposes and the upper floor space which has been assigned to other Government departments is only incidental;

(2) Postal custodial employees perform not only cleaning and janitor services, but also maintain the heating and lighting systems, repair and maintenance of facing tables, canceling machines, and other postal equipment;

(3) That it would be inadvisable to admit other Government employees to postal workrooms for security reasons;

(4) Should this plan become effective the postal service would suffer because of confusion and delay incident to maintaining custodial employees in the building who are not under the direct supervision of the post office; and

[2] See appendixes B and C for civil-service regulations issued April 1 and April 5, 1950.

(5) Postal employees transferred under the plan will lose some advantages in pay status.

Senator Johnston, in testifying in behalf of the Senate Committee on Post Office and Civil Service, contended that the plan was objectionable because it would destroy the morale of the postal workers and would effect no great efficiencies or economies, that the proposed transfer would place jurisdiction over post-office equipment by employees with little or no knowledge of its operations and maintenance, and that such action would be detrimental to efficient postal operations. Senator Johnston also stated that—

> To insure the utmost protection of mail, the postal regulations prohibit the admission to post-office workrooms of anyone except postal employees on duty. To admit custodial employees of another agency, not under control of the Post Office, would violate the sanctity and security of the mails. Guards in post-office lobbies and at other places of potential danger of robbers or other illegal acts are now postal custodial employees and if placed under another agency their value in protecting mail and funds would be greatly lessened.

Witnesses stated that should the plan become effective it would involve approximately a total of from 90 to 110 post-office buildings located in the larger cities throughout the United States, the transfer of approximately 4,000 employees with payrolls totaling in the neighborhood of $12,000,000, and that, under the plan, this cost would be transferred from the Post Office Department to the General Services Administration.

Jess Larson, General Services Administrator, maintained that the Public Buildings Administration was thoroughly familiar with the post office service and equipment and that the transfer of these functions to the General Services Administration would in no way interfere with the safety of the mails. He pointed out that the Public Buildings Administration was authorized under existing law to perform services in buildings now occupied by the Department of Defense, the Atomic Energy Commission, and other Federal agencies which conduct highly secretive and security operations, and that these employees would be as competent to carry on the operations in the post-office buildings placed under the jurisdiction of GSA in a manner equally as efficient as the present maintenance and custodial employees of the Post Office Department.

Mr. Larson also maintained that savings could be effected through the transfer proposed under Reorganization Plan No. 18 due to the existing duplication in advisory personnel and the allocation of space to Federal agencies in such buildings on a more equitable basis in conformity with such allocations in other Federal buildings. He further testified that this plan would be effective in the implementation of the space-management program authorized under the Federal Property and Administrative Services Act of 1949, and permit better utilization of space in Federal office buildings, thereby reducing the amount of rental space.

APPENDIX A

[H. Doc. No. 523, 81st Cong., 2d sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING REORGANIZATION PLAN NO. 18 OF 1950 PROVIDING FOR THE TRANSFER TO THE ADMINISTRATOR OF GENERAL SERVICES THE FUNCTIONS OF THE VARIOUS FEDERAL AGENCIES WITH RESPECT TO LEASING AND ASSIGNING GENERAL PURPOSE SPACE IN BUILDINGS AND THE OPERATION, MAINTENANCE, AND CUSTODY OF OFFICE BUILDINGS

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 18 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. The plan transfers to the Administrator of General Services the functions of the various Federal agencies with respect to leasing and assigning general-purpose space in buildings and the operation, maintenance, and custody of office buildings. Since such authority is already largely concentrated in the General Services Administration with respect to the District of Columbia, the plan principally relates to the administration of these functions in the field.

The transfers made by this plan will promote more economical leasing, better utilization of building space, and more efficient operation of Government-controlled office buildings. They will effectuate the recommendations of the Commission on Organization of the Executive Branch of the Government with respect to concentrating in the General Services Administration the responsibility for space allotment and the operation of Government buildings outside of the District of Columbia. Likewise, they will extend the principles laid down by the Congress in enacting the Federal Property and Administrative Services Act of 1949 to another important area of Government-wide administrative services—the administration of Government office buildings and general-purpose building space in the field.

Within the District of Columbia, one agency, the Public Buildings Service of the General Services Administration, has long had the operation and custody of most Government buildings and the leasing and assignment of space for executive agencies. Thus, nearly all requests for building space are handled by a single organization which is responsible for seeing that agencies are properly and efficiently housed. This arrangement has proved its worth and has repeatedly been approved by the Congress.

Outside of the National Capital, however, responsibility for the acquisition and control of building space and the operation of Government buildings is widely diffused. A variety of agencies operate and control general-purpose buildings. If quarters are not available in Federal buildings, each agency ordinarily does its own leasing. As a result, in some cases Federal agencies have contracted for space at high rentals at the very time that other agencies have been giving up surplus low-cost space.

The assignment of space in Government-owned buildings outside of Washington is also divided among a number of agencies. While the Public Buildings Service constructs a large part of the Government buildings, it operates and controls the assignment of space in only a small proportion of them. The Post Office Department operates and allocates the space in post-office buildings, several hundred of which contain substantial amounts of office space available for other agencies. During and immediately after the war several other Federal agencies acquired office buildings in the field. As their activities have contracted, surplus space in many of these structures has become available for other uses

This plan concentrates in the General Services Administration the responsibility for the leasing and assignment of what is termed general-purpose building space; that is, space which is suitable for the uses of a number of Federal agencies. It specifically excludes space in buildings at military posts, arsenals, navy yards, and similar defense installations and space in hospitals, laboratories, factories, and other special-purpose buildings.

Also, the plan excludes the Post Office Department from the transfer of leasing authority since the Department has a highly developed organization for this purpose, and it limits the transfer of space assignment authority in post-office buildings to the space not occupied by the Department. Further, it gives the needs of the Post Office Department priority in the assignment of space in post-office buildings. Thus, the plan amply safeguards the interests of the Post Office Department while making it possible to include the general office space in post-office buildings in any given city with other similar space under Federal control

in planning and executing an efficient program for housing Government agencies in that area.

In addition, the plan transfers to the General Services Administration the operation, maintenance, and custody of office buildings owned or leased by the Government, including those post-office buildings which are not used predominantly for post-office purposes. This will make it possible to establish a single organization for the operation and maintenance of Government office buildings in principal cities in the field as has proved desirable in the National Capital. Since many post offices are in fact primarily large office buildings, the plan includes in this transfer the post-office buildings which are not used predominantly for post-office purposes. This will relieve the Post Office Department of a considerable expenditure for building operation and maintenance which properly should not be charged against postal revenues.

While the plan effects a broad transfer of functions with respect to leasing and assignment of space and the operation and maintenance of office buildings, it specifically authorizes the Administrator of General Services to delegate the performance of any part of these functions to other agencies subject to such regulations as he deems desirable for economical and effective administration. In this the plan follows the pattern adopted by the Federal Property and Administrative Services Act of 1949 for other branches of property management. In large urban centers where numerous Federal units are located unified administration of space activities by the General Services Administration will normally be advantageous. On the other hand, in the smaller communities it will no doubt be desirable to delegate the work back to the agencies directly affected, to be carried on under standards laid down by the Administrator of General Services. The plan provides ample flexibility for working out the most effective administrative arrangement for each type of situation.

The fundamental soundness and economy of centralized administration of building space have been amply demonstrated in the National Capital. By virtue of unified control it has been possible since the war to accomplish far-reaching changes which have consolidated agencies in much fewer locations, released many of the rented buildings, and greatly reduced the cost of housing the Government establishment. Similar procedures applied in the larger centers of field activity should produce substantial savings.

After investigation, I have found, and hereby declare, that each reorganization contained in this plan is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

While it is not possible at this time to calculate the reduction in expenditures which will result from this plan, it can safely be predicted that it will produce substantial savings. I am confident that this reorganization plan will constitute a significant improvement in Federal business practice and will bring about an important increase in efficiency in housing Government agencies.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 18 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

BUILDING AND SPACE MANAGEMENT FUNCTIONS

SECTION 1. *Transfer of space assignment and leasing functions.*—All functions with respect to acquiring space in buildings by lease, and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in Government-owned buildings), are hereby transferred from the respective agencies in which such functions are now vested to the Administrator of General Services, exclusive, however, of all such functions with respect to—

(a) space in buildings located in any foreign country;

(b) space in buildings which are located on the grounds of any fort, camp, post, arsenal, navy yard, naval training station, airfield, proving ground, military supply depot, or school, or of any similar facility, of the Department of Defense, unless and to such extent as a permit for its use shall have been issued by the Secretary of Defense or his duly authorized representative;

(c) space occupied by the Post Office Department in post-office buildings and space acquired by lease for post-office purposes; and

(d) space in other Government-owned buildings which the Administrator of General Services finds are wholly or predominantly utilized for the special purposes of the agency having the custody thereof and are not generally suitable for the use of other agencies (including but not limited to hospitals, housing, laboratories, mints, manufacturing plants, and penal institutions), and space acquired by lease for any such purpose:

Provided, That the space needs of the Post Office Department shall be given priority in the assignment and reassignment of space in post-office buildings.

SEC. 2. *Transfer of office building management functions.*—All functions with respect to the operation, maintenance, and custody of office buildings owned by the Government and of office buildings or parts thereof acquired by lease, including those post-office buildings which, as determined by the Director of the Bureau of the Budget, are not used predominantly for post-office purposes, are hereby transferred from the respective agencies in which now vested to the Administrator of General Services, exclusive, however, of all such functions with respect to—

(a) any building located in any foreign country;

(b) any building located on the grounds of any fort, camp, post, arsenal, navy yard, naval training station, airfield, proving ground, military supply depot, or school, or of any similar facility, of the Department of Defense, unless and to such extent as a permit for its use by another agency or agencies shall have been issued by the Secretary of Defense or his duly authorized representative;

(c) any building which the Administrator of General Services finds to be a part of a group of buildings which are (1) located in the same vicinity, (2) are utilized wholly or predominantly for the special purposes of the agency having custody thereof, and (3) are not generally suitable for the use of other agencies; and

(d) the Treasury Building, the Bureau of Engraving and Printing Building, the buildings occupied by the National Bureau of Standards, and the buildings under the jurisdiction of the regents of the Smithsonian Institution.

SEC. 3. *Performance of transferred functions.*—(a) The Administrator of General Services may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the General Services Administration of any function transferred to such Administrator by the provisions of this reorganization plan.

(b) When authorized by the Administrator of General Services, any function transferred to him by the provisions of this reorganization plan may be performed by the head of any agency of the executive branch of the Government or, subject to the direction and control of any such agency head, by such officers, employees, and organizational units under the jurisdiction of such agency head as such agency head may designate: *Provided*, That functions with respect to post-office buildings shall not be delegated under the authority of this subsection to the head of any agency other than the Postmaster General.

(c) The Administrator of General Services shall prescribe such regulations as he deems desirable for the economical and effective performance of the functions transferred by the provisions of this reorganization plan.

SEC. 4. *Transfer of personnel, property, records, and funds.*—There shall be transferred from time to time, between the agencies concerned and for use in connection with the functions transferred by the provisions of this reorganization plan, so much of the personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds, relating to such functions, as may be necessary for the performance of said functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

SEC. 5. *Effective date.*—The provisions of this reorganization plan shall take effect on the 1st day of July 1950.

APPENDIX B

PART 25—FEDERAL EMPLOYEES' PAY REGULATIONS

SUBPART B—GENERAL COMPENSATION RULES

1. Effective 30 days after publication in the FEDERAL REGISTER, § 25.103 of this subpart is amended by the addition of paragraph (d) as set out below.

§ 25.103 *General provisions.* * * *

(d) Where an employee occupies a position not subject to the Classification Act, and the employee together with his position is initially brought under the Classification Act of 1949 pursuant to the Reorganization Act of 1949 or other legislation, an Executive order of the President, or decision of the Civil Service Commission under section 203 of the Classification Act of 1949, the provisions of § 25.104 (b) (1) to (5), inclusive, shall apply in determining the employee's initial rate of basic compensation. This provision shall apply only so long as the employee continues to occupy the same position.

(1) The rate of basic compensation of a subsequent appointee to such position shall be fixed in accordance with the other applicable provisions in this subpart.

2. Section 25.104 of this subpart is amended by deleting "802" from the first sentence of paragraph (b). This change is retroactively effective as of the first day of the first pay period following enactment of the Classification Act of 1949. As amended, paragraph (b) reads as follows:

§ 25.104 *Special provisions.* * * *

(b) Under the authority of sections 1101 and 1105 (b) of the Classification Act of 1949, establishment of initial salary rates of basic compensation for employees who on an effective date specified by the Commission under section 1105 (b) of the Classification Act of 1949 occupy positions under that act which immediately prior to October 28, 1949, were exempt from the Classification Act of 1923, as amended (including positions in grade 9 of the professional and scientific service or in grade 16 of the clerical, administrative, and fiscal service referred to in section 13 of such act), shall be as follows:

(1) If the employee is receiving a rate of basic compensation less than the minimum scheduled rate of the grade in which his position is placed, his compensation shall be increased to the minimum rate.

(2) If the employee is receiving a rate of basic compensation within the range of salary prescribed for the grade in which his position is placed, at one of the rates fixed therein, no change shall be made in his existing rate.

(3) If the employee is receiving a rate of basic compensation within the range of salary prescribed for the grade in which his position is placed, but not at one of the rates fixed therein, his compensation shall be increased to the next higher rate.

(4) If the employee is receiving a rate of basic compensation in excess of the maximum scheduled rate for the grade in which his position is initially placed, no change shall be made in his existing rate.

(5) After salary rates have been initially established, an employee may subsequently receive an increase in compensation by reason of the operation of Titles V and VII, section 802 (b) of Title VIII, or Title X. An employee whose salary was initially established under the foregoing provisions in a position which is later changed to a lower grade without material change of duties and responsibilities, shall be paid at the rate he received immediately prior to the date his position became subject to the act, or at a higher rate authorized by the provisions of § 25.103.

(6) The rate of basic compensation of a subsequent appointee to such position shall be fixed in accordance with the other applicable provisions in this subpart.

(Sec. 1101, Pub. Law 429, 81st Cong.)

[SEAL]

UNITED STATES CIVIL SERVICE COMMISSION,
HARRY B. MITCHELL, *Chairman.*

[F. R. Doc. 50-2730; Filed, Mar. 31, 1950; 8:56 a. m.]

APPENDIX C

PART 30—ANNUAL AND SICK LEAVE REGULATIONS

TRANSFER FROM POSITION NOT WITHIN PURVIEW OF LEAVE ACTS TO POSITION WITHIN PURVIEW OF LEAVE ACTS

Effective 30 days after publication in the FEDERAL REGISTER, § 30.410 is amended by the addition of paragraph (d) as follows:

§ 30.410 *Transfer from position not within purview of leave acts to position within purview of leave acts.* * * *

(d) Whenever any employee in the Postal Service or in any other agency or position whose sick leave is not governed by the regulations in this part is transferred to any agency or position which is subject to the regulations in this part and

the transfer of such employee is an incident to a transfer of function made by or under authority of law, there shall be transferred with the employee the accumulated and current accrued sick leave standing to the credit of such employee at the time of transfer. The amount of any sick leave so transferred shall not exceed 90 days.

(Sec. 7, 49 Stat. 1162; 5. U. S. C. 30e. E. O. 9414, Jan. 13, 1944, 9 F. R. 623, 3 CFR, 1944 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
HARRY B. MITCHELL, *Chairman.*

[SEAL]

[F. R. Doc. 50-2820; Filed, Apr. 4, 1950; 8:52 a. m.]

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Calendar No. 1686

81ST CONGRESS
2D SESSION

S. RES. 270

[Report No. 1675]

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, MARCH 29), 1950

Mr. JOHNSTON of South Carolina (for himself, Mr. MCKELLAR, Mr. NEELY, Mr. FREAR, Mr. LEAHY, Mr. LANGER, Mr. THYE, Mr. ECTON, and Mr. DWORSHAK) submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 18 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, without recommendation

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 18 of 1950 transmitted to Congress by the President on March 13, 1950.

Calendar No. 1686

81ST CONGRESS
2D SESSION

S. RES. 270

[Report No. 1675]

RESOLUTION

Disapproving Reorganization Plan Numbered 18 of 1950.

By Mr. JOHNSTON of South Carolina, Mr. McKELLAR, Mr. NEELY, Mr. FREAR, Mr. LEAHY, Mr. LANGER, Mr. THYE, Mr. ECTON, and Mr. DWORSHAK

MAY 10 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 18 (legislative day, MARCH 29), 1950
Reported without recommendation

zation plans. On page 6 of the report I note that Reorganization Plan No. 17 is listed as having no conformance with the Hoover Commission recommendations. In fact, plan No. 17 is the only one of the 21 which can be placed in the category of specifically having no recommendations from the Citizens' Committee, and therefore not being in accord with the recommendations of the Hoover Commission.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. DWORSHAK. I yield.

Mr. SPARKMAN. I wish to correct the Senator in one statement. The two committees are entirely different. One is the Senate Committee on Expenditures in the Executive Departments, the other is the Citizens' Committee, composed of members scattered over the country. The Senator from Maryland read into the RECORD a letter signed by the chairman of the Citizens' Committee endorsing the plan 100 percent, and saying it does conform.

Mr. DWORSHAK. I thank the Senator for that comment. I am aware of that fact, but I merely wish to ask, what right does the Citizens' Committee have to appeal to this body to support Reorganization Plan No. 17, when that plan does not conform with any recommendations made by the Hoover Commission?

My point is that we have heard much during the debate of the past few days about what the Hoover Commission has recommended. Any Senator who studied the reports released by the committee of the Senate which studied the recommendations would come to the conclusion that there has been much misrepresentation made during the debate. I do not charge that it has been deliberate, but at least it has been confusing to some Senators who desire to follow and accept the recommendations of the Hoover Commission, and yet find that the President has submitted many reorganization plans which were not based upon those recommendations, or, in some cases, on only a few of the recommendations, while there has been deliberate disregard of the Hoover recommendations by most of the plans which have been referred to the Congress by the President.

Mr. AIKEN. Mr. President, it has been very interesting at times to listen to the various interpretations which have been put upon the recommendations and the findings of the Hoover Commission by employees of the executive branch of the Government and also by a great many citizens in the States, most of them extremely well intentioned. But I have to say that some of the interpretations which have been put upon the recommendations have been very much at variance with what I believe to be the intents and purposes of the Hoover Commission recommendations. When I say that I am speaking as a member of the Commission itself, and therefore feel that, along with the Senator from Arkansas [Mr. MCCLELLAN], as the two members representing the Senate on the Hoover Commission, we probably have a pretty fair idea of what the purposes of the recommendations made by the Commission are.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Hill	Malone
Benton	Hoey	Martin
Brewster	Holland	Millikin
Bricker	Humphrey	Mundt
Bridges	Hunt	Myers
Butler	Ives	Neely
Byrd	Jenner	O'Conor
Cain	Johnson, Colo.	O'Mahoney
Capehart	Kefauver	Robertson
Chapman	Kem	Russell
Cordon	Kilgore	Saltonstall
Darby	Knowland	Schoeppel
Donnell	Langer	Smith, Maine
Douglas	Leahy	Smith, N. J.
Dworshak	Lehman	Sparkman
Ecton	Long	Stennis
Ellender	Lucas	Taft
Ferguson	McCarran	Taylor
Flanders	McCarthy	Thomas, Utah
Fulbright	McClellan	Thye
George	McFarland	Watkins
Gillette	McKellar	Wherry
Hayden	McMahon	Wiley
Hendrickson	Magnuson	Williams

The PRESIDING OFFICER. A quorum is present.

The question before the Senate is on agreeing to Senate Resolution 271 disapproving Reorganization Plan No. 17.

Mr. LANGER and other Senators asked for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. MYERS. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Oklahoma [Mr. KERR], the Senator from Florida [Mr. PEPPER], and the Senator from Maryland [Mr. TYDINGS] are absent on public business.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from South Carolina [Mr. JOHNSTON], and the Senator from Oklahoma [Mr. THOMAS] are absent by leave of the Senate.

The Senators from Texas [Mr. CONNALLY and Mr. JOHNSON], the Senator from Mississippi [Mr. EASTLAND], and the Senator from Kentucky [Mr. WITHERS] are detained on official business.

The Senator from California [Mr. DOWNEY], and the Senator from North Carolina [Mr. GRAHAM] are absent because of illness.

The Senator from Delaware [Mr. FREAR] is absent by leave of the Senate on official business.

The Senator from Rhode Island [Mr. GREEN] is absent by leave of the Senate on official business as a member of a subcommittee of the Committee on Foreign Relations investigating the security program of the Department of State and its foreign establishments.

The Senator from South Carolina [Mr. MAYBANK] is absent by leave of the Senate because of a death in his family.

The Senator from Montana [Mr. MURRAY] is absent because of a death in his family.

If present and voting, the Senator from New Mexico [Mr. ANDERSON], the Senator from Rhode Island [Mr. GREEN], the Senator from Texas [Mr. JOHNSON], the Senator from South Carolina [Mr. MAYBANK], and the Senator from Maryland [Mr. TYDINGS] would vote "nay."

Mr. SALTONSTALL. I announce that the Senator from South Dakota [Mr. GURNEY], the Senator from Michigan [Mr. VANDENBERG], and the Senator from North Dakota [Mr. YOUNG], are absent by leave of the Senate.

The Senator from Iowa [Mr. HICKENLOOPER] who is absent by leave of the Senate is paired with the Senator from Oregon [Mr. MORSE] who is also absent by leave of the Senate. If present and voting the Senator from Iowa would vote "yea" and the Senator from Oregon would vote "nay."

The Senator from Massachusetts [Mr. LODGE] is absent by leave of the Senate on official committee business.

The Senator from New Hampshire [Mr. TOBEY] is absent on official business. If present and voting the Senator from New Hampshire would vote "nay."

The yeas and nays resulted—yeas 29, nays 43, as follows:

YEAS—29

Aiken	Flanders	Malone
Brewster	Fulbright	Martin
Bridges	Hendrickson	Millikin
Butler	Ives	Mundt
Byrd	Jenner	Saltonstall
Capehart	Kem	Schoeppel
Cordon	Langer	Smith, Maine
Donnell	McCarran	Thye
Dworshak	McCarthy	Wherry
Ecton	McClellan	

NAYS—43

Benton	Hunt	O'Conor
Bricker	Johnson, Colo.	O'Mahoney
Cain	Kefauver	Robertson
Chapman	Kilgore	Russell
Darby	Knowland	Smith, N. J.
Douglas	Leahy	Sparkman
Ellender	Lehman	Stennis
Ferguson	Long	Taft
George	Lucas	Taylor
Gillette	McFarland	Thomas, Utah
Hayden	McKellar	Watkins
Hill	McMahon	Wiley
Hoey	Magnuson	Williams
Holland	Myers	
Humphrey	Neely	

NOT VOTING—24

Anderson	Gurney	Murray
Chavez	Hickenlooper	Pepper
Connally	Johnson, Tex.	Thomas, Okla.
Downey	Johnston, S. C.	Tobey
Eastland	Kerr	Tydings
Frear	Lodge	Vandenberg
Graham	Maybank	Withers
Green	Morse	Young

The PRESIDENT pro tempore. On this vote, the yeas are 29, the nays 43. A majority of the authorized Members of the Senate not having voted in the affirmative, the resolution (S. Res. 271) is not agreed to.

REORGANIZATION PLAN NO. 18 OF 1950

Under the unanimous-consent agreement,

The PRESIDENT pro tempore. The Chair now lays before the Senate Senate Resolution 270.

The Senate proceeded to consider the resolution, which is as follows:

Resolved, That the Senate does not favor the Reorganization Plan No. 18 of 1950 transmitted to Congress by the President on March 13, 1950.

The PRESIDENT pro tempore. Under the agreement, there is to be 1 hour for debate, with the time to be equally divided between the proponents and the opponents and to be controlled by the Senator from Maryland [Mr. O'CONOR]

and the Senator from Vermont [Mr. AIKEN], respectively.

Mr. O'CONOR. I yield to the Senator from Minnesota.

Mr. THYE. Mr. President, as a member of the Committee on Post Office and Civil Service, and also as a cosponsor of Senate Resolution 270, I wish to say that I joined as a cosponsor for the purpose of having hearings at which we could develop the facts concerning Reorganization Plan No. 18. The hearings were held, and much testimony was taken, and much consideration and thought were given to the entire question of reorganization under plan No. 18.

After having obtained all the facts, even though I am a cosponsor of Senate Resolution 270, I consider that there is more to be gained by means of the adoption of the reorganization plan than by means of supporting the objections to the plan.

However, I feel that there are some employees within the Custodial Division of the Post Office Department who, if the plan goes into effect, will suffer losses. Between 4,000 and 5,000 employees in that agency now have the benefit of longevity pay. If they are transferred to the General Services Administration, they will lose the benefit of the longevity-pay provision, and as a result they may lose anywhere from $100 to $300 in pay. I feel that those employees should in some manner be taken care of in the future. However, I believe that matter can be taken care of either by legislative action or by administrative action on the part of the agency which will receive these employees.

Mr. CAIN. Mr. President, will the Senator yield for a question?

Mr. THYE. I am very happy to yield to the distinguished Senator from Washington.

Mr. CAIN. Will the Senator please explain why the employees would lose their longevity pay rights merely by being transferred from one branch of the Government to another?

Mr. THYE. The branch of the Government to which they would be transferred does not recognize longevity, nor does it have a provision for longevity pay. Only the Post Office Department has such a provision for its employees. However, there is some difference in annual leave and in sick leave, because of which the employees in question will obtain a benefit when they are transferred to the other administrative branch of the Government. On the other hand, from the standpoint of longevity pay, legislatively they have been granted some specific salary increases on the basis of longevity.

Mr. CAIN. I thank the Senator.

Mr. THYE. Those employees will stand to lose that when they are transferred. However, I believe the Congress or the administrative division to which they are transferred can take care of the longevity pay due the employees who will be transferred.

So, Mr. President, because I feel that Reorganization Plan No. 18 provides so many benefits which are most desirable, I believe that even though there are employees who will be discriminated against, the plan should go into effect.

Mr. O'CONOR. Mr. President, will the Senator yield for a question?

Mr. THYE. I shall be very happy to do so.

Mr. O'CONOR. Knowing that the Senator from Minnesota has devoted very much time in the interest of these Government employees, let me ask him a question for information. As a result of the interest of the Senator from Minnesota and others, since this plan was submitted the Civil Service Commission has promulgated several orders which in large measure take care of very many of the objections to which the Senator has referred. Is that not correct?

Mr. THYE. That is quite true. However, they do not take care of the longevity pay, and those employees justly and rightfully should be taken care of because of that situation. It is for that reason that I mentioned that some legislative action in the future or some administrative action in the future should be taken in recognition of the fact that those employees will be losing anywhere from $100 to $300 in the way of salary increases which they could receive if they remained in the service of the Post Office Department.

Mr. O'CONOR. I do not disagree at all. I simply wish to emphasize the point that action which has been taken will in some degree take care of that situation.

Mr. President, will the Senator yield for a further question?

Mr. THYE. I am glad to yield.

Mr. O'CONOR. Is it not also true that the employees who are transferred will receive additional benefits both in regard to annual leave and in regard to sick leave, in that the number of days of leave will be increased, and they will have the benefits of the increased leave in both of those respects?

Mr. THYE. That is correct.

Mr. AIKEN. Mr. President, as I understand, at the end of the session last evening the Senate voted that the time for the consideration of these resolutions should be controlled by the Senator from Maryland [Mr. O'CONOR], on the one side, and by myself, on the other. I understand that under that arrangement I am supposed to be in charge of the 30 minutes allocated to the supporters of the resolution disapproving of Reorganization Plan No. 18 which is now before the Senate. Inasmuch as I do not expect to vote to disapprove plan No. 18, it seems to me a little inconsistent that I should be in control of the time for those who oppose it.

Therefore, I ask whether there is now present any Member of the Senate who will take a position in opposition to plan No. 18, so that the time may be transferred to him.

Mr. O'CONOR. Mr. President, will the Senator yield?

Mr. AIKEN. I yield.

Mr. O'CONOR. I understand that the able Senator from West Virginia [Mr. NEELY] is to make a statement in regard to this matter. I merely suggest that possibly that might be the solution.

Mr. AIKEN. Then, Mr. President, I ask unanimous consent that the control of the time which I have had, be transferred from myself to the junior Senator from West Virginia [Mr. NEELY].

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. AIKEN. I am not in a position to say how much of the time has been used, or by which Senators it has been used.

ATTEMPTS BY SECRETARY GENERAL OF THE UNITED NATIONS TO SECURE RECOGNITION OF THE CHINESE COMMUNIST REGIME

Mr. KNOWLAND. Mr. President, will the Senator from Maryland yield 4 minutes to me to permit me to make a statement on a different subject?

Mr. O'CONOR. I am very happy to yield to the Senator from California.

The PRESIDENT pro tempore. The Senator from California is recognized for 4 minutes.

Mr. KNOWLAND. Mr. President, is there another Munich in the making? Indications exist that Trygve Lie, Secretary General of the United Nations, and partisan of the Soviet Union's position relative to seating the Chinese Communist regime in the United Nations, is busily engaged in selling his 1950 brand of appeasement.

In 1938, Prime Minister Chamberlain, of Great Britain, and Premier Daladier, of France, thought that by surrendering the sovereignty of Czechoslovakia they were gaining peace in our time. We know now that by paying international blackmail to Hitler they were making certain ever-increasing demands which finally could not be paid.

Mr. Lie's proposal has been to entice the Soviet Union back into the United Nations, which it voluntarily left because the other members did not yield to the pressure tactics of the Soviet walk-out technique. The President of the United States, in his letter transmitting his fourth annual report on the United Nations, described the action as the willful flouting by the Soviet Government of obligations assumed by it under the Charter. Yet Mr. Trygve Lie would have the other members yield to this type of pressure in order to bring the Soviet Union back.

Mr. President, I strongly believe that this yielding to Soviet pressure will be as destructive to the United Nations and to the ultimate peace of the world as was the pact of Munich.

Once the Soviet Union has demonstrated that by such unilateral action it can bend the United Nations to its knees, I predict that the walk-out technique will be tried again and again and again.

Perhaps the next walk-out will be on the issue of our refusal to accept the Soviet formula on atomic energy, or perhaps it will be on the refusal of this Nation and our western allies to repudiate the North Atlantic Pact.

It may be on some other issue which is not yet clear; but the precedent will be established that in order to appease the Soviet Union, the Secretary General will use the vast power and prestige of

his office, not for the purpose of bringing the Soviet Union to its senses and to continue participation in the deliberations of the United Nations, as is the clear obligation for them to do under the Charter, but, rather, to bend to the will of the Soviet Union all the other member states.

This, Mr. President, is a dangerous and destructive doctrine. It would be as though the Representatives of a single State in this Chamber would walk out of our deliberations because the other 94 Members would not accept the decisions of a single State, and then the Secretary of this body, with the prestige and importance that goes with his office, would spend his time in urging Senators from the other 47 States to yield their point of view, in order that we might have a full attendance.

Yesterday Mr. Lie saw the leaders of the French Republic. Today he is meeting with the Prime Minister and Foreign Minister of Great Britain. Now is the time for this Government to speak out in clear and unmistakable language that we will have no part in any such deal that not only is destructive of the procedures in the United Nations under its Charter, but is also a rank betrayal of our historic friends, the non-Communist Republic of China.

Appeasement in 1950, as in 1938, is but surrender on the installment plan.

REORGANIZATION PLAN NO. 18

The Senate resumed the consideration of the resolution (S. Res. 270) disapproving Reorganization Plan No. 18 of 1950.

The PRESIDENT pro tempore. The Senator from Maryland.

Mr. O'CONOR. Mr. President, I yield such time to the Senator from West Virginia [Mr. NEELY] as he may need for the presentation of a brief statement.

Mr. NEELY. Mr. President, the distinguished Senator from South Carolina [Mr. JOHNSTON], chairman of the Committee on Post Office and Civil Service, prepared a brief address on the pending resolution. Unhappily the Senator is unavoidably absent on official business. Therefore I ask unanimous consent that his address be read to the Senate by the clerk.

The PRESIDENT pro tempore. Without objection, the clerk will read the statement.

The Chief Clerk read the statement prepared by Mr. JOHNSTON of South Carolina, as follows:

MEMORANDUM TO BE USED IN OPPOSITION TO REORGANIZATION PLAN NO. 18

Resolution 270, in opposition to Reorganization Plan No. 18, has reference to approximately 100 Federal buildings in the larger cities of the country which are used for post offices and other Government purposes.

Since there are approximately 3,300 Government-owned buildings operated by the Post Office Department, 3,200 are not affected.

There is no opposition to section 1 of the plan, but it is impossible to segregate it, therefore it is necessary to oppose the entire plan. Section 1 relates to transfer of space assignment and leasing functions. The major part of the testimony before the Expenditures Committee in favor of the plan was directed to this section.

Our opposition is directed mainly to section 4 of the plan—transfer of personnel, property, records, and funds, but since section 2—transfer of office building management functions, and section 3, performance of transferred functions, are so closely related to section 4 as to make them inseparable, we are opposed to all of the plan except section 1. Actually, section 4 is necessary to implement the purpose of sections 2 and 3.

Our opposition to the plan is based solely on the adverse effect on that part of post office custodial employees who would be transferred from the Post Office Department to General Services Administration.

Of the approximate 20,000 custodial employees of the postal service, between 4,000 and 5,000 will, under this plan, become a part of the General Services Administration personnel.

The result would be that this 20 to 25 percent would suffer a loss in future earning power even though no change in present pay; would, in some cases, lose all of their longevity benefits; would be denied opportunity for promotions subsequent to their transfer to General Services Administration, as follows:

Mr. Baruch, of the Civil Service Commission, testifying before the Committee, at page 119 of the hearings, illustrated this by saying that the maximum pay of a laborer under the Classification Act of 1949 is $2,540, without longevity, and the highest with maximum longevity would be $2,750. Whereas such an employee can now receive a maximum of $2,870 to which, as a postal employee, he can with 25 years' service have added thereto $300 longevity. As to automatic promotions, laborers enter the post office custodial service at $2,470 per annum with annual increase of $100 until they reach the maximum of $2,870, therefore, a laborer transferred to General Services Administration while earning $2,470 would only receive one promotion of $70, and thereafter be frozen at $2,540, except, of course, he would be entitled to longevity benefits on a reduced basis.

While it appears on the face that Post Office custodial employees will suffer no loss in annual and sick leave due to this transfer; on the contrary an apparent gain, the actual facts raise a doubt even under existing law which favors Government personnel generally over Post Office employees as to leave.

As to annual leave, it should be pointed out that while the employee will not suffer, the taxpayer will, as the plan contemplates immediate payment of all accumulated annual leave at time of transfer which will amount to several million dollars which would not have to be paid if the plan is rejected. As to sick leave, the transferred personnel will lose all accumulated sick leave over 90 days, whereas the remaining 75 to 80 percent of the Post Office custodial personnel not transferred will retain this sick leave even though in excess of 90 days.

It remains to be seen from actual operation whether or not it is good to have approximately 3,200 Government-owned post-office buildings operated by the Post Office Department and the remaining 100 in our larger cities operated under this plan. Of these 100 in some cases the postmaster will continue as custodian and in others a GSA official will serve as custodian with the possibility of clash in dual responsibility and authority.

Prior to 1933 custodial employees in Government-owned post-office buildings were Treasury personnel. By Executive order such were transferred to the Post Office Department. A great improvement was made by this transfer, and we think it is a backward step to again divide this personnel.

In his testimony before both Senate and House Committees on Expenditures, the Deputy Postmaster General testified that the Post Office Department's approval of the plan is based on the fact that the Department will be relieved of approximately $11,000,000 annually, the custodial cost in these 100 buildings. However, while this is a good argument for the Department in its present financial condition, it should not be persuasive on this body, since it is admitted that this is not a real saving, but simply swapping this expenditure from one agency to another.

The disapproval of this plan by the Senate will not destroy the beneficial purpose of section 1, but will make it possible for the President to submit a revised plan, deleting the harmful part and retaining that which is good.

Mr. O'CONOR. Mr. President, I yield myself such time as may be necessary for the presentation of the statement.

This plan provides for transferring to the Administrator of General Services the responsibility for leasing, and assigning general purpose space, the maintenance, operation, and custody of office buildings. Since this authority is already conferred on the General Services Administration for performing such functions in the District of Columbia, this plan is primarily designed to transfer and consolidate all such functions to the Administrator for the field service, except as specifically exempted in the plan.

Within the District of Columbia a single agency, namely, the Public Buildings Service of the General Services Administration, has long had the operation and custody of most Government buildings and the leasing and assignment of space for executive agencies. Thus, nearly all requests for building space are handled by a single organization which is responsible for seeing that agencies are properly and efficiently housed. Outside of the National Capital, however, responsibility for the acquisition and control of building space and the operation of Government buildings is widely diffused among the agencies located in each city .

As a general rule, each agency leases, operates, and controls general purpose space which it uses in the field. It has been frequently found that if facilities are not available in Federal buildings, the agency will go on the open market and lease property from the local brokers or owners. Experience has shown that in some large cities numerous Federal procurement officers were negotiating for office space at the same time, thereby forcing the market up, and at the same time competing against each other.

The Post Office Department operates and allocates space in post-office buildings, several hundred of which contain substantial amounts of office space available for other agencies. During and immediately after the war several other Federal agencies acquired office buildings in the field. As their activities diminished, surplus space in many of these structures became available for other use. Since there was no central clearinghouse available in the field to equitably allocate the space, excessive space was occupied by some agencies or it remained unoccupied, while others were going into the open market to procure high-cost space to meet their requirements.

This plan excluded the leasing functions now vested in the Post Office De-

partment, and such space which is used by that Department for postal service. This exclusion is intended to safeguard the interest of the Post Office Department by giving it priority on all space under its jurisdiction, while at the same time making it possible to release such space as is in excess of its needs. In other words, if a postal building is predominantly used by that Department, its custody and control would remain under the Department; but, if only a portion of the building is used for the postal service, the remainder of the building for general purpose use would be allocated to the General Services Administration for assignment, maintenance, and upkeep. Under this arrangement it is anticipated that insofar as the cost of operating the postal system is concerned a reduction will be made because these nonpostal expenses are now charged against postal revenues.

This plan conforms with the recommendations of the Hoover Commission; it is in accord with the spirit and intent of the Federal Property and Administrative Services Act of 1949, and will make possible substantial reductions in the rental of property for Government use and facilitate the allocation of space to Government agencies.

Before concluding, Mr. President, may I say that unified control over leasing, maintenance, and allocation of general purpose space will make possible improvements which should save money in a number of ways, which are enumerated as follows:

First. By permitting the leasing of entire buildings and large blocks of space instead of numerous small units.

Second. By eliminating competition among Federal agencies for leased space, which tends to drive up rental rates. At present as many as 20 or 30 different agencies are leasing space in some of the larger cities.

Third. By concentrating leasing in the hands of specialists who know the local real-estate market and are experienced in negotiating leases.

Fourth. By permitting the establishment of definite standards of space utilization and requiring agencies to justify their space requirements before persons who are qualified to judge the reasonableness of the requests.

Fifth. By preventing agencies from entering into leases at high costs when suitable space is, or is about to become, available in Government-owned buildings or in lower-cost leased buildings.

Sixth. By permitting the use of 5-year leases instead of annual leases where the condition of the rental market warrants. Better terms can usually be obtained on long-term leases. But, whereas it might not be wise for the average agency to bind itself for more than 1 year because of uncertainties as to its future needs, a central leasing agency can safely enter into long-term leases on a large part of its space.

Mr. President, for those reasons, and because it undoubtedly is in the direction of greater efficiency and economy in Government, I urge the rejection of the resolution, which would mean the adoption of Reorganization Plan No. 18.

Mr. NEELY. Mr. President, having no request for time I suggest that the Senate proceed to a vote, and preparatory to that action, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Hill	Millikin
Benton	Hoey	Mundt
Brewster	Holland	Myers
Bricker	Humphrey	Neely
Bridges	Hunt	O'Conor
Butler	Ives	O'Mahoney
Byrd	Jenner	Robertson
Cain	Johnson, Colo.	Russell
Capehart	Johnson, Tex.	Saltonstall
Chapman	Kefauver	Schoeppel
Connally	Kem	Smith, Maine
Cordon	Kilgore	Smith, N. J.
Darby	Knowland	Sparkman
Donnell	Langer	Stennis
Douglas	Lehman	Taft
Dworshak	Long	Taylor
Eastland	Lucas	Thomas, Utah
Ecton	McCarran	Thye
Ellender	McCarthy	Tydings
Ferguson	McClellan	Watkins
Flanders	McFarland	Wherry
Fulbright	McKellar	Wiley
George	McMahon	Williams
Gillette	Magnuson	Withers
Hayden	Malone	
Hendrickson	Martin	

The PRESIDENT pro tempore. A quorum is present.

Mr. O'CONOR. Mr. President, in view of the fact that apparently no other Members of the Senate wish to speak on the pending legislation I ask unanimous consent that the Senate now proceed to vote on it.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to Senate Resolution 270.

Mr. HUMPHREY. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. MYERS. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Oklahoma [Mr. KERR], and the Senator from Florida [Mr. PEPPER] are absent on public business.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from South Carolina [Mr. JOHNSTON], and the Senator from Oklahoma [Mr. THOMAS] are absent by leave of the Senate.

The Senator from California [Mr. DOWNEY], and the Senator from North Carolina [Mr. GRAHAM] are absent because of illness.

The Senator from Delaware [Mr. FREAR] is absent by leave of the Senate on official business.

The Senator from Rhode Island [Mr. GREEN] is absent by leave of the Senate on official business as a member of a subcommittee of the Committee on Foreign Relations investigating the security program of the Department of State and its foreign establishments.

The Senator from Rhode Island [Mr. LEAHY] is detained on official business.

The Senator from South Carolina [Mr. MAYBANK] is absent by leave of the Senate because of a death in his family.

The Senator from Montana [Mr. MURRAY] is absent because of a death in his family.

The Senator from South Carolina [Mr. JOHNSTON] is paired on this vote with the Senator from Rhode Island [Mr. GREEN]. If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Rhode Island would vote "nay."

If present and voting, the Senator from New Mexico [Mr. ANDERSON], and the Senator from South Carolina [Mr. MAYBANK] would vote "nay."

Mr. SALTONSTALL. I announce that the Senator from South Dakota [Mr. GURNEY], the Senator from Michigan [Mr. VANDENBERG], and the Senator from North Dakota [Mr. YOUNG], are absent by leave of the Senate.

The Senator from Iowa [Mr. HICKENLOOPER] who is absent by leave of the Senate is paired with the Senator from Oregon [Mr. MORSE] who is also absent by leave of the Senate. If present and voting the Senator from Iowa would vote "yea" and the Senator from Oregon would vote "nay."

The Senator from Massachusetts [Mr. LODGE] is absent by leave of the Senate on official committee business.

The Senator from New Hampshire [Mr. TOBEY] is absent on official business. If present and voting the Senator from New Hampshire would vote "nay."

The yeas and nays resulted—yeas 7, nays 69, as follows:

YEAS—7

Butler	Gillette	Wiley
Capehart	Neely	
Ecton	Taylor	

NAYS—69

Aiken	Hoey	Malone
Benton	Holland	Martin
Brewster	Humphrey	Millikin
Bricker	Hunt	Mundt
Bridges	Ives	Myers
Byrd	Jenner	O'Conor
Cain	Johnson, Colo.	O'Mahoney
Chapman	Johnson, Tex.	Robertson
Connally	Kefauver	Russell
Cordon	Kem	Saltonstall
Darby	Kilgore	Schoeppel
Donnell	Knowland	Smith, Maine
Douglas	Langer	Smith, N. J.
Dworshak	Lehman	Sparkman
Eastland	Long	Stennis
Ellender	Lucas	Taft
Ferguson	McCarran	Thomas, Utah
Flanders	McCarthy	Thye
Fulbright	McClellan	Tydings
George	McFarland	Watkins
Hayden	McKellar	Wherry
Hendrickson	McMahon	Williams
Hill	Magnuson	Withers

NOT VOTING—20

Anderson	Hickenlooper	Murray
Chavez	Johnston, S. C.	Pepper
Downey	Kerr	Thomas, Okla.
Frear	Leahy	Tobey
Graham	Lodge	Vandenberg
Green	Maybank	Young
Gurney	Morse	

The PRESIDING OFFICER (Mr. HOLLAND in the chair). On this question the yeas are 7, the nays 69. A majority of the authorized membership of the Senate not having voted in the affirmative, the resolution is not agreed to.

Mr. SMITH of New Jersey subsequently said: Mr. President, I am making this brief statement at the request of the Citizens' Committee for the Hoover Report, and I ask unanimous consent that these remarks may appear in the RECORD following the last vote taken on the reorganization plans.

The PRESIDING OFFICER. Without objection, it is so ordered.

81ST CONGRESS
2D SESSION

S. RES. 270

IN THE SENATE OF THE UNITED STATES

MAY 10 (legislative day, MARCH 29), 1950

Mr. JOHNSTON of South Carolina (for himself, Mr. MCKELLAR, Mr. NEELY, Mr. FREAR, Mr. LEAHY, Mr. LANGER, Mr. THYE, Mr. ECTON, and Mr. DWORSHAK) submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 18 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, without recommendation

MAY 23 (legislative day, MARCH 29), 1950

Considered and disagreed to

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 18 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 270

RESOLUTION

Disapproving Reorganization Plan Numbered 18 of 1950.

By Mr. JOHNSTON of South Carolina, Mr. McKELLAR, Mr. NEELY, Mr. FREAR, Mr. LEAHY, Mr. LANGER, Mr. THYE, Mr. ECTON, and Mr. DWORSHAK

MAY 10 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 18 (legislative day, MARCH 29), 1950
Reported without recommendation

MAY 23 (legislative day, MARCH 29), 1950
Considered and disagreed to

81ST CONGRESS } HOUSE OF REPRESENTATIVES { DOCUMENT
2d Session } { No. 524

REORGANIZATION PLAN NO. 19 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 19 OF 1950 TRANSFERRING FROM THE FEDERAL SECURITY AGENCY TO THE DEPARTMENT OF LABOR THE BUREAU OF EMPLOYEES' COMPENSATION AND THE EMPLOYEES' COMPENSATION APPEALS BOARD AND THEIR FUNCTIONS. FUNCTIONS OF THE FEDERAL SECURITY ADMINISTRATOR WITH RESPECT TO EMPLOYEES' COMPENSATION ARE ALSO TRANSFERRED BY THE PLAN

MARCH 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 19 of 1950, prepared in accordance with the Reorganization Act of 1949. This reorganization plan carries out a specific recommendation of the Commission on Organization of the Executive Branch of the Government by transferring from the Federal Security Agency to the Department of Labor the Bureau of Employees' Compensation and the Employees' Compensation Appeals Board and their functions. The functions of the Federal Security Administrator with respect to employees' compensation are also transferred by the plan.

The reorganization plan is a further step in achieving the general objective of the Commission to strengthen the Department of Labor by bringing within it labor functions which over many years have been scattered throughout the executive branch.

Last year by reorganization plan the Bureau of Employment Security was transferred to the Department of Labor. Today I am also transmitting Reorganization Plan No. 14, which assigns to the

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Department of Labor the responsibility for prescribing and enforcing standards, regulations, and procedures in order to coordinate and assure consistent enforcement of labor-standards legislation applying to federally financed or assisted construction and public works. The accompanying reorganization plan will further consolidate allied programs of the Federal Government pertaining to employees and employment.

The Bureau of Employees' Compensation administers programs which compensate workers and their dependents for death or disabling injuries suffered in the course of employment. These programs constitute the Federal Government's system of workmen's compensation and include the related functions of accident prevention and safety. Currently, there are four major groups of employees covered by this system, including 2,000,000 Federal employees, 500,000 longshoremen and harbor workers, 250,000 industrial employees in the District of Columbia, and an estimated 100,000 employees of private contractors located at overseas United States bases. In 1949 these groups of employees suffered over 200,000 injuries, of which 30,000 resulted in claims for compensation.

The Employees' Compensation Appeals Board hears and finally decides appeals on claims of employees covered by the Federal Employees' Compensation Act. Non-Federal employees take appeals arising from compensation claims directly to the district courts.

This workmen's compensation system, which is designed to mitigate the hardships attendant upon the death or disabling injuries of employees growing out of their employment, is clearly a labor function and is closely related to other programs of the Department of Labor.

For many years the Department of Labor has taken leadership in promoting standards for workmen's compensation programs throughout the country. It is most appropriate that the agency promoting high standards for workmen's compensation programs throughout the several States should likewise administer the Federal Government's workmen's compensation programs.

An accident-prevention program is always a necessary adjunct of a workmen's compensation system. The Department of Labor has the primary responsibility in the Federal Government for developing and promoting programs for the prevention and elimination of industrial hazards. This activity is primarily carried out by the Bureau of Labor Standards through the establishment of safety standards of general application throughout industry. This Bureau is also the focal point for making effective the Government's Nation-wide conferences on industrial safety. A related activity is the responsibility of the Wage and Hour and Public Contracts Divisions of the Department to enforce the safety provisions of the Walsh-Healey Public Contract Act with respect to working conditions on certain public contracts.

The Secretary of Labor also has special responsibilities relating to safety for Federal employees, having served as chairman of the policy board of the Interdepartmental Safety Council since its inception. The Bureau of Labor Standards has provided the necessary staff work for the Council, and has assisted the Secretary of Labor in carrying out his broad area of interest in Federal safety programs.

An integral part of the Department's activities for effective programs of workmen's compensation and industrial safety has been the

compilation of accident statistics by the Bureau of Labor Statistics. Effective administration of workmen's compensation or safety standards requires the use of that Bureau's information on work injuries and accident causes, for this information affords important guidance in the establishment of equitable compensation benefits and in the formulation of effective safety standards.

Prior to 1916 the Federal system of workmen's compensation was carried out under the Secretary of Labor, or his predecessor, the Secretary of Commerce and Labor. From 1916 to 1946 administration of this system was vested in an independent Employees' Compensation Commission. Due to the greatly increased complexity of the Federal Government, it was imperative that the independent status of that Commission be eliminated and that it be placed within one of the major constituents of the executive branch. Therefore, in 1946, the Employees' Compensation Commission was abolished and its functions were transferred to the Federal Security Agency.

Since 1946 new conditions have arisen which make it desirable to change the location of the Federal workmen's compensation system. Recently, through the 1949 amendments to the Federal Employees' Compensation Act, the Bureau of Employees' Compensation was given increased responsibilities with respect to accident prevention and safety. Furthermore, in 1949 responsibility for unemployment compensation was assigned to the Department of Labor. Workmen's compensation, like unemployment compensation, is a program designed to alleviate hazards arising in employment. Since functions relating to both employment and employment conditions are performed by the Department of Labor, compensation for injury suffered in employment, like compensation for unemployment, should also be a function of the Department of Labor.

There are not transferred by the provisions of this reorganization plan (1) any function of the Public Health Service, (2) any function of the Federal Security Agency or the Federal Security Administrator under the Vocational Rehabilitation Act, as amended (including the function of assuring the development and accomplishment of State rehabilitation plans affecting beneficiaries under the Federal Employees Compensation Act); nor (3) the function of developing or establishing rehabilitation services or facilities. These responsibilities are retained in the Federal Security Agency. This provision will preclude the necessity for establishing any duplicating facilities or services.

After investigation, I have found and hereby declare that each of the reorganizations included in Reorganization Plan No. 19 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

It is probable that a reduction of expenditures will result from the reorganizations included in this plan, as well as from greater efficiency of administration. An itemization of these reductions in advance of actual experience under this plan is not practicable.

This reorganization is another link in the program to strengthen the Department of Labor. It will result in the accomplishment of optimum efficiency and is in the interest of the most effective organization of the Government.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 19 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

EMPLOYEES' COMPENSATION FUNCTIONS

Section 1. *Bureau of Employees' Compensation.*—The Bureau of Employees' Compensation of the Federal Security Agency, together with its functions, is transferred to the Department of Labor and shall be administered under the direction and supervision of the Secretary of Labor. The functions of the Federal Security Administrator, and of the Federal Security Agency, with respect to the Bureau of Employees' Compensation and with respect to employees' compensation (including workmen's compensation) are transferred to the Secretary of Labor: *Provided,* That there are not transferred by the provisions of this reorganization plan (1) any function of the Public Health Service; (2) any function of the Federal Security Agency or the Federal Security Administrator under the Vocational Rehabilitation Act, as amended (including the function of assuring the development and accomplishment of State rehabilitation plans affecting beneficiaries under the Federal Employees' Compensation Act); nor (3) the function of developing or establishing rehabilitation services or facilities. The functions transferred by the provisions of this section shall be performed by the Secretary of Labor or, subject to his direction and control, by such officers, agencies, and employees of the Department of Labor as he shall designate.

Sec. 2. *Employees' Compensation Appeals Board.*—The Employees' Compensation Appeals Board of the Federal Security Agency, together with the functions thereof, is transferred to the Department of Labor. The functions of the Federal Security Administrator with respect to the Employees' Compensation Appeals Board are transferred to the Secretary of Labor. The Board shall continue to have authority to hear and, subject to applicable law and the rules and regulations of the Secretary of Labor, to make final decision on appeals taken from determinations and awards with respect to claims of employees of the Federal Government or of the District of Columbia.

Sec. 3. *Personnel, records, property, and funds.*—There are transferred to the Department of Labor, for use in connection with the functions transferred by the provisions of this reorganization plan, the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) of the Bureau of Employees' Compensation and the Employees' Compensation Appeals Board, together with so much as the Director of the Bureau of the Budget shall determine of other personnel, property, records, and unexpended balances of appropriations, allocations, and funds (available or to be made available) of the Federal Security Agency which relate to functions transferred by the provisions of this reorganization plan

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81st Congress, 2d Session | SENATE | Report No. 1549

REORGANIZATION PLAN NO. 19 OF 1950, TRANSFER OF EMPLOYEES' COMPENSATION FUNCTIONS FROM FEDERAL SECURITY AGENCY TO DEPARTMENT OF LABOR

MAY 10 (legislative day, MARCH 29), 1950.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

By authority of the Reorganization Act of 1949 (Public Law 109, 81st Cong., June 20, 1949), the President of the United States, on March 13, 1950, submitted to the Congress Reorganization Plan No. 19 of 1950.

This committee, although under no requirement to do so, hereby reports favorably on the plan for the purpose of providing assurance to the Senate that the plan has been given full study and consideration and to make available to the Senate pertinent information with respect thereto.

PURPOSE

This reorganization plan transfers the Bureau of Employees' Compensation and the Employees' Compensation Appeals Board from the Federal Security Agency to the Department of Labor. The plan also transfers from the Federal Security Administrator to the Secretary of Labor, the Administrator's functions with respect to employees' compensation, including workmen's compensation, and the Administrator's functions with respect to the Employees' Compensation Appeals Board. The distinction here made as between the functions of the agencies and the functions of the heads thereof is necessary because there are involved certain organizational responsibilities peculiar to the position of agency head rather than to the agency itself.

Also transferred from the Federal Security Agency to the Department of Labor, as a necessary adjunct to the transfers enumerated above, are related personnel, property, records, and funds.

CONFORMANCE WITH RECOMMENDATIONS OF THE HOOVER COMMISSION

As stated by the President in his message of transmittal, this plan is in exact conformity with recommendation No. 2 of Hoover Commission Report No. 13 on the Department of Labor, which is as follows:

> We recommend that the Bureau of Employees' Compensation and the Employees' Compensation Appeals Board be transferred to the Department of Labor.

In this relation, however, it may be pertinent to record that, in the Hoover Commission's Report No. 15, Social Security, Education, and Indian Affairs, a minority statement by Vice Chairman Acheson and Commissioners Aiken and Rowe contains a recommendation that the Bureau of Employees' Compensation be retained in a Department of Welfare, which would have been created from the Federal Security Agency. This dissent sets forth the opinion that the compensation functions administered by the Bureau of Employees' Compensation bear no resemblance to any other program of the Department of Labor. On the contrary, the dissent maintains workmen's compensation is a form of social insurance and therefore naturally belongs in the Federal Security Agency.

As also relevant to the foregoing, the committee feels that due note should be made of the fact that the dissent referred to was transmitted to the Congress in Report No. 15 on March 18, 1949. On June 20, 1949, the President submitted to the Congress Reorganization Plan No. 2 of 1949, which transferred, among other things, the Bureau of Employment Security, including the function of unemployment compensation, from the Federal Security Agency to the Department of Labor and, although resolutions of disapproval were presented to both Houses of Congress through the appropriate committees, the resolutions were disapproved and the plan became law on August 20, 1949. Thus the statement in the dissent that workmen's compensation functions bear no resemblance to any existing operating program of the Department of Labor cannot be said to be true at the present time.

HISTORICAL BACKGROUND

The functions of the present Bureau of Employees' Compensation and of the Employees' Compensation Appeals Board originally were lodged in the United States Employees' Compensation Commission, an independent organization. Under authority of the Reorganization Act of 1945 (Public Law 263, 79th Cong., approved December 20, 1945), the President, on May 16, 1946, submitted to the Congress Reorganization Plan No. 2 of 1946. Section 3 of that plan abolished the United States Employees' Compensation Commission and transferred its functions to the Federal Security Agency to be administered under a single head, as distinguished from its previous administration by a quasi-judicial commission of three. Section 3 of that plan also directed that there be established in the Federal Security Agency a board of three persons which would discharge the appeals functions formerly discharged by the United States Employees' Compensation Commission. Thus, in lieu of the single agency, the United States Employees' Compensation Commission, there came into existence, as a result of Reorganization Plan No. 2 of 1946, two entities, the

Bureau of Employees' Compensation and the Employees' Compensation Appeals Board, both located in the Federal Security Agency.

On June 24, 1946, the Committee on Expenditures in the Executive Departments of the House of Representatives reported favorably House Concurrent Resolution 151, disapproving the reorganization plan. In accompanying House Report 2327, the committee stated that its recommendation for disapproval of the reorganization plan was based on its belief that the abolition of the United States Employees' Compensation Commission violated section (5) (a) (6) of the Reorganization Act of 1945, which provides, in part, that no reorganization plan thereunder should impose on any quasi-judicial function then possessed by an independent agency any greater limitation upon the exercise of that function than existed prior to the reorganization. The committee stated further its belief that Federal employees who have claims under the United States Employment Compensation Act are entitled to appeal to a bipartisan commission that is not subject to the administrative control of another executive agency or department head.

On July 9, 1946, the Senate Committee on the Judiciary reported unfavorably Senate Concurrent Resolution 65, which would have disapproved Reorganization Plan No. 2 of 1946. As to section 3 of that plan, the Senate committee stated that the language therein to the effect that the functions of the United States Employees' Compensation Commission should be performed "in such manner" as the Federal Security Administrator "shall prescribe" referred only to the technical performance of functions; that is, the matter of forms, procedures, etc. The committee took the position that there was no intent or attempt to place the appeals determinations of the Commission under the jurisdiction of the Federal Security Administrator. Thus, it would appear that the Senate committee found itself completely out of sympathy with the stand of the House committee. In any event, the plan was disapproved in the House, but disapproval failed in the Senate and thus the plan became law; the United States Employees' Compensation Commission was abolished; and its functions have since been discharged in the Federal Security Agency by the Bureau of Employees' Compensation, under a Director, and the Employees' Compensation Appeals Board, consisting of three members, one of whom is Chairman.

LAWS INVOLVED

The several acts of Congress which are administered by the Bureau of Employees' Compensation are as follows:

Act of September 7, 1916, as amended.—This is the basic compensation law for Federal employees and provides compensation for civilian employees of the United States who suffer personal injuries while in the performance of duty. The act benefits, in addition to all civil employees of the Federal Government, certain employees of the District of Columbia; members of the Naval Reserve force, of the Officers' Reserve Corps and of the Enlisted Reserve Corps of the Army, of the Coast Guard Reserve, and of the Women's Army Auxiliary Corps, under certain conditions; evacuees in war relocation camps; persons employed on certain Federal relief projects; commissioned officers of the Public Health Service; and certain other groups.

Act of March 4, 1927.—This law provides workmen's compensation benefits for employees in private enterprise while engaged in maritime employment on navigable waters of the United States.

Act of May 17, 1928.—This law extends the provisions of the act of March 4, 1927 (see preceding paragraph), to "private employments" in the District of Columbia.

Act of August 16, 1941, as amended by the act of December 2, 1942.—These two acts extend the provisions of the act of March 4, 1927 (see identification above), to employees on United States military, air, and naval bases in foreign countries, on certain military and naval installations outside the continental limits of the United States, and on certain other projects of the United States on foreign soil.

Act of July 3, 1948.—This is the War Claims Act of 1948, certain parts of which are involved in this transfer of functions, relating specifically to claims of employees of certain contractors with the United States for wages due on account of detention by the enemy during World War II.

Other legal functions.—In addition to the foregoing, there are also involved certain miscellaneous activities relating to civilian war benefits and claims of certain American civilians and certain contractors arising from World War II.

CONCLUSION

So far as the committee has been able to determine, there is at present no important objection to this plan.

Attention is directed, however, to the Hoover Commission minority dissent reported above under Conformance With Recommendations of the Hoover Commission. Also in this relation, in a letter of July 14, 1949, addressed to the chairman of this committee, Mr. Oscar R. Ewing, Federal Security Administrator, commented as follows, with respect to the Bureau of Employees' Compensation and the Employees' Compensation Appeals Board:

> As these two functions relate primarily to compensation for injuries of civilian employees of the Federal Government, I am considering them together. Frankly, I can find no tangible reasons why these functions should be transferred from this Agency. I feel strongly that the relation of these functions to other Federal social insurances is of much greater importance, and all your committee's attention to the separate statement of Vice Chairman Acheson and Commissioners Aiken and Rowe, which appears on pages 46–47.

After quoting from the dissent of Vice Chairman Acheson and Commissioners Aiken and Rowe, Mr. Ewing concluded as follows:

> I am opposed to the proposal to transfer these functions.

The committee has again, informally, sought the opinion of the Federal Security Agency regarding this transfer as contemplated by Reorganization Plan No. 19 and is advised that, although the letter of July 14, 1949, referred to above, expressed the views of the Federal Security Agency at that time, now, in view of the President's announced program, the Agency voices no present opposition to the transfer.

Reorganization Plan No. 19 of 1950 and the President's message with respect thereto are as follows:

[H. Doc. No. 524, 81st Cong., 2d sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING REORGANIZATION PLAN NO. 19 OF 1950 TRANSFERRING FROM THE FEDERAL SECURITY AGENCY TO THE DEPARTMENT OF LABOR THE BUREAU OF EMPLOYEES' COMPENSATION AND THE EMPLOYEES' COMPENSATION APPEALS BOARD AND THEIR FUNCTIONS. FUNCTIONS OF THE FEDERAL SECURITY ADMINISTRATOR WITH RESPECT TO EMPLOYEES' COMPENSATION ARE ALSO TRANSFERRED BY THE PLAN

To the Congress of the United States:

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The reorganization plan is a further step in achieving the general objective of the Commission to strengthen the Department of Labor by bringing within it labor functions which over many years have been scattered throughout the executive branch.

Last year by reorganization plan the Bureau of Employment Security was transferred to the Department of Labor. Today I am also transmitting Reorganization Plan No. 14, which assigns to the Department of Labor the responsibility for prescribing and enforcing standards, regulations, and procedures in order to coordinate and assure consistent enforcement of labor-standards legislation applying to federally financed or assisted construction and public works. The accompanying reorganization plan will further consolidate allied programs of the Federal Government pertaining to employees and employment

The Bureau of Employees' Compensation administers programs which compensate workers and their dependents for death or disabling injuries suffered in the course of employment. These programs constitute the Federal Government's system of workmen's compensation and include the related functions of accident prevention and safety. Currently, there are four major groups of employees covered by this system, including 2,000,000 Federal employees, 500,000 longshoremen and harbor workers, 250,000 industrial employees in the District of Columbia, and an estimated 100,000 employees of private contractors located at overseas United States bases. In 1949 these groups of employees suffered over 200,000 injuries, of which 30,000 resulted in claims for compensation.

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This workmen's compensation system, which is designed to mitigate the hardships attendant upon the death or disabling injuries of employees growing out of their employment, is clearly a labor function and is closely related to other programs of the Department of Labor.

For many years the Department of Labor has taken leadership in promoting standards for workmen's compensation programs throughout the country. It is most appropriate that the agency promoting high standards for workmen's compensation programs throughout the several States should likewise administer the Federal Government's workmen's compensation programs.

An accident-prevention program is always a necessary adjunct of a workmen's compensation system. The Department of Labor has the primary responsibility in the Federal Government for developing and promoting programs for the prevention and elimination of industrial hazards. This activity is primarily carried out by the Bureau of Labor Standards through the establishment of safety standards of general application throughout industry. This Bureau is also the focal point for making effective the Government's Nation-wide conferences on industrial safety. A related activity is the responsibility of the Wage and Hour and Public Contracts Divisions of the Department to enforce the safety provisions of the Walsh-Healey Public Contract Act with respect to working conditions on certain public contracts.

The Secretary of Labor also has special responsibilities relating to safety for Federal employees, having served as chairman of the policy board of the Interdepartmental Safety Council since its inception. The Bureau of Labor Stand-

ards has provided the necessary staff work for the Council, and has assisted the Secretary of Labor in carrying out his broad area of interest in Federal safety programs.

An integral part of the Department's activities for effective programs of workmen's compensation and industrial safety has been the compilation of accident statistics by the Bureau of Labor Statistics. Effective administration of workmen's compensation or safety standards requires the use of that Bureau's information on work injuries and accident causes, for this information affords important guidance in the establishment of equitable compensation benefits and in the formulation of effective safety standards.

Prior to 1916 the Federal system of workmen's compensation was carried out under the Secretary of Labor, or his predecessor, the Secretary of Commerce and Labor. From 1916 to 1946 administration of this system was vested in an independent Employees' Compensation Commission. Due to the greatly increased complexity of the Federal Government, it was imperative that the independent status of that Commission be eliminated and that it be placed within one of the major constituents of the executive branch. Therefore, in 1946, the Employees' Compensation Commission was abolished and its functions were transferred to the Federal Security Agency.

Since 1946 new conditions have arisen which make it desirable to change the location of the Federal workmen's compensation system. Recently, through the 1949 amendments to the Federal Employees' Compensation Act, the Bureau of Employees' Compensation was given increased responsibilities with respect to accident prevention and safety. Furthermore, in 1949 responsibility for unemployment compensation was assigned to the Department of Labor. Workmen's compensation, like unemployment compensation, is a program designed to alleviate hazards arising in employment. Since functions relating to both employment and employment conditions are performed by the Department of Labor, compensation for injury suffered in employment, like compensation for unemployment, should also be a function of the Department of Labor.

There are not transferred by the provisions of this reorganization plan (1) any function of the Public Health Service; (2) any function of the Federal Security Agency or the Federal Security Administrator under the Vocational Rehabilitation Act, as amended (including the function of assuring the development and accomplishment of State rehabilitation plans affecting beneficiaries under the Federal Employees Compensation Act); nor (3) the function of developing or establishing rehabilitation services or facilities. These responsibilities are retained in the Federal Security Agency. This provision will preclude the necessity for establishing any duplicating facilities or services.

After investigation, I have found and hereby declare that each of the reorganizations included in Reorganization Plan No. 19 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

It is probable that a reduction of expenditures will result from the reorganizations included in this plan, as well as from greater efficiency of administration. An itemization of these reductions in advance of actual experience under this plan is not practicable.

This reorganization is another link in the program to strengthen the Department of Labor. It will result in the accomplishment of optimum efficiency and is in the interest of the most effective organization of the Government.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 19 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

EMPLOYEES' COMPENSATION FUNCTIONS

SECTION 1. *Bureau of Employees' Compensation.*—The Bureau of Employees' Compensation of the Federal Security Agency, together with its functions, is transferred to the Department of Labor and shall be administered under the direction and supervision of the Secretary of Labor. The functions of the Federal Security Administrator, and of the Federal Security Agency, with respect to the Bureau of Employees' Compensation and with respect to employees' compensa-

tion (including workmen's compensation) are transferred to the Secretary of Labor: *Provided*, That there are not transferred by the provisions of this reorganization plan (1) any function of the Public Health Service; (2) any function of the Federal Security Agency or the Federal Security Administrator under the Vocational Rehabilitation Act, as amended (including the function of assuring the development and accomplishment of State rehabilitation plans affecting beneficiaries under the Federal Employees' Compensation Act); nor (3) the function of developing or establishing rehabilitation services or facilities. The functions transferred by the provisions of this section shall be performed by the Secretary of Labor or, subject to his direction and control, by such officers, agencies, and employees of the Department of Labor as he shall designate.

SEC. 2. *Employees' Compensation Appeals Board.*—The Employees' Compensation Appeals Board of the Federal Security Agency, together with the functions thereof, is transferred to the Department of Labor. The functions of the Federal Security Administrator with respect to the Employees' Compensation Appeals Board are transferred to the Secretary of Labor. The Board shall continue to have authority to hear and, subject to applicable law and the rules and regulations of the Secretary of Labor, to make final decision on appeals taken from determinations and awards with respect to claims of employees of the Federal Government or of the District of Columbia.

SEC. 3. *Personnel, records, property, and funds.*—There are transferred to the Department of Labor, for use in connection with the functions transferred by the provisions of this reorganization plan, the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) of the Bureau of Employees' Compensation and the Employees' Compensation Appeals Board, together with so much as the Director of the Bureau of the Budget shall determine of other personnel, property, records, and unexpended balances of appropriations, allocations, and funds (available or to be made available) of the Federal Security Agency which relate to functions transferred by the provisions of this reorganization plan.

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81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 525

REORGANIZATION PLAN NO. 20 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 20 OF 1950, PROVIDING FOR TRANSFER FROM THE SECRETARY OF STATE TO THE ADMINISTRATOR OF GENERAL SERVICES A NUMBER OF FUNCTIONS WHICH HAVE NO CONNECTION WITH FOREIGN AFFAIRS BUT BEAR A CLOSE RELATION TO THE ARCHIVAL AND RECORDS FUNCTIONS OF THE GENERAL SERVICES ADMINISTRATION

MARCH 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 20 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. This plan transfers from the Secretary of State to the Administrator of General Services a number of functions which have no connection with foreign affairs but bear a close relation to the archival and records functions of the General Services Administration.

Since its establishment in 1789 the Department of State has performed certain routine secretarial and record-keeping functions for the Federal Government which are entirely extraneous to its basic mission with respect to the conduct of foreign relations. While these activities do not properly belong in the Department, they were assigned to it and continued under its jurisdiction for want of an appropriate agency for their performance. At present these functions consist of the preservation and publication of laws, the preparation and publication of the Statutes at Large, the certification and publication of constitutional amendments, the receipt and preservation of certificates of Presidential electors and of electoral votes, and the compilation and publication of Territorial papers.

Through the National Archives and Records Service the General Services Administration is especially staffed and equipped for the con-

duct of activities of these types. It is the principal custodian of the official records of the Government. Under the Federal Register Act and the Administrative Procedure Act, it preserves and publishes in the Federal Register the Executive orders, proclamations, and other principal executive documents and it codifies and publishes the rules and regulations promulgated by the various departments and agencies. This work is generally similar in nature to, and much greater in volume than, that performed by the Department of State with respect to constitutional amendments, laws, and proclamations. Consequently, the consolidation of these activities of the State Department with the archival and records activities of the General Services Administration should make for greater efficiency and economy. The plan, however, does not transfer the custody and publication of treaties and international agreements, since they are matters of special concern to the Department of State and it is the agency most competent to edit such documents.

The handling of the certificates of Presidential electors and the compilation and publication of Territorial papers also more appropriately belong in the General Services Administration. The first is largely a matter of record keeping and the second of archival research. The preparation of the Territorial papers involves the compilation and editing of official documents of the various Territories formerly existing within the United States. The greater part of this material is now in the National Archives and the work involved is generally similar to that being performed by it with respect to other groups of public records.

In addition, the plan abolishes two statutory duties of the Secretary of State which have become obsolete. The first is the duty of procuring copies of all State statutes as provided in the act of September 23, 1789 (R. S. 206). Inasmuch as the Library of Congress now has a complete collection of the State laws, it is no longer necessary for the Department of State to maintain a complete collection. The second is the requirement, imposed by the act of July 31, 1876 (19 Stat. 105), as amended, that the Secretary of State publish proclamations and treaties in a newspaper in the District of Columbia. This is now unnecessary since proclamations are published in the Federal Register and treaties are made available currently in slip form in the Treaties and Other International Acts Series.

After investigation I have found and hereby declare that each reorganization included in this plan is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The transfers provided by this plan will relieve the State Department of a number of functions that have no relation to its primary purpose and place them in an agency especially designed for the performance of such activities. Until these functions are incorporated in the operations of the General Services Administration, it will not, of course, be practicable to determine the economies attributable to their transfer, but it is reasonable to expect modest yet worth-while savings to be achieved.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

Reorganization Plan No. 20 of 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

STATUTES AT LARGE AND OTHER MATTERS

Section 1. *Functions transferred from Department of State to Administrator of General Services.*—There are hereby transferred to the Administrator of General Services the functions of the Secretary of State and the Department of State with respect to:

(a) The receipt and preservation of the original copies of bills, orders, resolutions, and votes (R. S. 204, as amended);

(b) The publication of acts and joint resolutions in slip form and the compilation, editing, indexing, and publication of the United States Statutes at Large, except such functions with respect to treaties and other international agreements (1 U. S. C. 112; R. S. 204, as amended; R. S. 210, as amended; R. S. 3805, as amended; R. S. 3806, as amended; Act of Jan. 12, 1895, 28 Stat. 609 and 615, as amended; Act of April 12, 1904, 33 Stat. 587);

(c) The certification and publication of amendments to the Constitution of the United States (R. S. 205) and the preservation of such amendments;

(d) Certificates of appointment of the electors of the President and Vice President and certificates of the votes of such electors for President and Vice President (3 U. S. C. 6, 11–13); and

(e) The collection, copying, arranging, editing, copy reading, and indexing of the official papers of the Territories (Act of March 3, 1925, 43 Stat. 1104, as amended; Act of July 31, 1945, 59 Stat. 510).

Sec. 2. *Abolition of functions.*—(a) The duty of the Secretary of State of procuring copies of all statutes of the several States is hereby abolished, but this shall not limit his authority to procure copies of such State statutes as may be needed in the performance of his functions (R. S. 206).

(b) The duty of the Secretary of State of publishing Executive proclamations and treaties in a newspaper in the District of Columbia is hereby abolished (Act of July 31, 1876, 19 Stat. 105, as amended, 44 U. S. C. 321).

Sec. 3. *Performance of transferred functions.*—The Administrator of General Services may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the General Services Administration of any function transferred to such Administrator by the provisions of this reorganization plan.

Sec. 4. *Transfer of records, property, personnel, and funds.*—There are hereby transferred to the General Services Administration, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, the records and property now being used or held in connection with such functions, the personnel employed in connection with such functions, and the unexpended balances of appropriations, allocations, and other funds avail-

able or to be made available for use in connection with such functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

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81st Congress, 2d Session | SENATE | Report No. 1550

REORGANIZATION PLAN NO. 20 OF 1950, TRANSFERRING OF FUNCTIONS FROM THE SECRETARY OF STATE AND THE DEPARTMENT OF STATE TO THE ADMINISTRATOR OF GENERAL SERVICES

May 10 (legislative day, March 29), 1950.—Ordered to be printed

Mr. McClellan, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

On March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949 (Public Law 109, 81st Cong., June 20, 1949), the President of the United States submitted to the Congress Reorganization Plan No. 20 of 1950.

Although not required to do so, this committee desires to report favorably on the plan, thereby presenting to the Senate the results of the committee's study and consideration thereof.

PURPOSE

The purpose of this reorganization plan is to transfer to the Administrator of General Services certain preservation, publication, and certification functions now lodged in the Secretary of State and in the Department of State with respect to acts of Congress, amendments to the Constitution of the United States, certificates of appointment and votes of electors of the President and Vice President of the United States, and official papers of the Territories from which the States of the United States were formed. The Administrator of General Services would be empowered to delegate this authority within the General Services Administration as he may consider appropriate.

The plan would also abolish certain obsolete functions now required to be performed by the Secretary of State, namely, (*a*) the procuring of copies of all statutes of the States of the United States, which is now done by the Library of Congress; and (*b*) the publishing of Presidential proclamations and treaties in a newspaper of the District of Columbia, now published in the Federal Register. Further, treaties are now made available in slip form.

In conjunction with the functions transferred, there are also proposed to be transferred incidental records, property, personnel, and funds.

CONFORMANCE WITH RECOMMENDATIONS OF THE HOOVER COMMISSION

There is no specific recommendation of the Hoover Commission relating to the transfer of the functions covered by this reorganization plan. However, the plan is in direct conformance with the position of the Hoover Commission as expressed in Report No. 1, General Management of the Executive Branch, to the effect that improvement of the organization and administration of the Government must include "a more orderly grouping of the functions of Government into major departments and agencies under the President." The Commission further stated in Report No. 1 that, by placing related functions together in an agency, duplication could be eliminated and coordinated policies could be developed.

A part of the General Services Administration is the National Archives and Records Service and, as will be seen from the ensuing section of this report, the statutory enactments involved place the functions proposed to be transferred squarely within the operational field of that Service.

LAWS INVOLVED

Enactments of Congress affecting functions proposed to be transferred:

Section 204, as amended, Revised Statutes (5 U. S. C. 159).—This is a requirement of law deriving from an act of September 15, 1789. It requires the Secretary of State to preserve the originals of all acts of the Congress.

Title 1, section 112, United States Code.—This provision of law requires that the Secretary of State shall cause the compiling, editing, indexing, and publishing of the United States Statutes at Large; prescribes the contents thereof; establishes the status of the Statutes at Large as to legal evidence; and provides for the timeliness of their publication.

Section 210, as amended, Revised Statutes (5 U. S. C. 165).—This provision of law requires that the Secretary of State shall furnish to the Public Printer a correct copy of every act of Congress and of every treaty and international agreement.

Sections 3805 and 3806, as amended, Revised Statutes (44 U. S. C. 192, 193).—These statutes, respectively, relate to correction by the Secretary of State of newly printed acts of Congress and treaties and to printing by the Public Printer of postal conventions, which are considered as international agreements.

Act of January 12, 1895 (28 Stat. 609, 615), as amended (44 U. S. C. 191, 196).—This law, as incorporated into the two sections of the United States Code, provides in the first instance, for certain mechanics of printing of laws and international agreements and, in the second instance, constitutes a repetition of the contents of the law referred to above at title 1, section 112, United States Code.

Act of April 12, 1904 (33 Stat. 587) (44 U. S. C. 197).—This provision of law relates to certain mechanics in the preparation of the United States Statutes at Large.

Section 205, Revised Statutes (5 U. S. C. 160).—This is a provision of law which requires the Secretary of State to have published, and to certify with respect to, amendments of the Constitution which have been adopted.

Title 3, sections 6, 11–13, United States Code.—These sections of the law relate to custody by the Secretary of State of actions by electors of the President and Vice President of the United States.

Act of March 3, 1925 (43 Stat. 1104), as amended (5 U. S. C. 167, 168).—This law relates to collection by the Secretary of State of the official papers of the Territory from which each State of the United States was formed, and to publications thereof.

Act of July 31, 1945 (59 Stat. 510) (5 U. S. C. 168d).—This provision of law relates to the functions enumerated under the law defined in the paragraph immediately preceding.

Enactments of Congress affecting functions proposed to be abolished:

Section 206, Revised Statutes (5 U. S. C. 161).—This is a provision of law which requires the Secretary of State to maintain a complete collection of the statutes of all of the States of the United States. (Now also performed by the Library of Congress.)

Act of July 31, 1876 (19 Stat. 105), as amended (44 U. S. C. 321).—This is the provision of law which requires publication in a newspaper of the District of Columbia, as designated by the Secretary of State, of Presidential proclamations and treaties. (Now also published in the Federal Register.)

CONCLUSION

In the preceding section of this report, there are defined briefly the various legislative enactments involved under Reorganization Plan No. 20. An important feature of the plan is the reservation to the Secretary of State of all printing and publication functions, including compiling, editing, and indexing, with respect to treaties, other international agreements, Presidential proclamations related thereto and postal conventions.

So far as the committee has been able to determine, there is no important objection to any feature of the plan. It is generally agreed that the plan is thoroughly sound and marks a distinct step forward in the development of better governmental administration. It may be said that the plan places all functions involved, which are of a domestic nature, in the hands of the Administrator of General Services, while retaining those of an international character in the hands of the Secretary of State.

LEGISLATIVE RECOMMENDATION

In the course of its investigation and consideration of this plan, the committee became cognizant of a contingency corollary to this reorganization plan and which inevitably must ensue almost immediately after the plan becomes effective. It is desired to direct this matter to the attention of the Senate because in the interest of better administration some action of a legislative nature should be taken.

At the present time, the United States Statutes at Large are issued, as required by law, on the basis of a session of the Congress and, through custom, publication is made in two segments, the first containing, generally, public laws and reorganization plans, if any, and the second containing, generally, private laws, treaties, other international agreements, and related proclamations. Thus, it is readily apparent that retention by the Secretary of State of his functions

with respect to the Statutes at Large, as related to treaties and other international agreements and proclamations, creates a difficulty for the reason that the function of incorporating private laws and any other inclusions into the second segment of the Statutes at Large are transferred by this reorganization plan to the Administrator of General Services. Obviously, either an unwieldy working arrangement must be attained between the Department of State and the General Services Administration so as to correlate their respective work as to publication of the second segment of the Statutes at Large or, as an alternative, the Statutes at Large must henceforth be published somewhat differently, as to segments, so as to permit the Department of State to perform its functions regarding treaties and other international agreements and proclamations independently of the General Services Administration.

This latter alternative is exactly what the Department of State and the General Services Administration feel should be done. Further, both agencies agree that, as there is no particular relationship between a session of the Congress and the publication of treaties and other international agreements and proclamations, it should be permissible to have the publication thereof done on the basis of a calendar year. The reasons for this change are very persuasive and the committee is wholly in sympathy therewith.

It should be reported further that, by identical letters of June 10, 1949, to the Senate and the House of Representatives, the Secretary of State submitted for consideration of the Congress a proposed draft of legislation which would amend applicable law to permit removal of treaties, related proclamations, and other international agreements from the Statutes at Large, authorize their publication in a separate volume on the basis of a calendar year, and provide for the acceptance of such separate volume as legal evidence equally with the Statutes at Large. This draft bill was referred to the Senate Committee on Rules and Administration where, after some preliminary investigation, it has remained dormant. The matter has been discussed at length with representatives of the Department of State and the effect sought to be attained by the legislation is still desired by the Department. Of course, the draft bill should be thoroughly revised so as to reflect developments proposed to be brought about by Reorganization Plan No. 20.

The committee intends in this relation, immediately upon Reorganization Plan No. 20 becoming effective, to cause introduction of an appropriately revised bill. The benefits from such legislation can reasonably be expected to be manifold, including better administration with respect to publication of the international documents and a very probable considerable monetary saving arising from elimination of the so-called Malloy volumes, in which, from time to time, such international papers have been printed as Senate documents.

Reorganization Plan No. 20 of 1950 and the President's message with respect thereto are as follows:

[H. Doc. No. 525, 81st Cong., 2d sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING REORGANIZATION PLAN NO. 20 OF 1950, PROVIDING FOR TRANSFER FROM THE SECRETARY OF STATE TO THE ADMINISTRATOR OF GENERAL SERVICES A NUMBER OF FUNCTIONS WHICH HAVE NO CONNECTION WITH FOREIGN AFFAIRS BUT BEAR A CLOSE RELATION TO THE ARCHIVAL AND RECORDS FUNCTIONS OF THE GENERAL SERVICES ADMINISTRATION

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 20 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. This plan transfers from the Secretary of State to the Administrator of General Services a number of functions which have no connection with foreign affairs but bear a close relation to the archival and records functions of the General Services Administration.

Since its establishment in 1789 the Department of State has performed certain routine secretarial and record-keeping functions for the Federal Government which are entirely extraneous to its basic mission with respect to the conduct of foreign relations. While these activities do not properly belong in the Department, they were assigned to it and continued under its jurisdiction for want of an appropriate agency for their performance. At present these functions consist of the preservation and publication of laws, the preparation and publication of the Statutes at Large, the certification and publication of constitutional amendments, the receipt and preservation of certificates of Presidential electors and of electoral votes, and the compilation and publication of Territorial papers.

Through the National Archives and Records Service the General Services Administration is especially staffed and equipped for the conduct of activities of these types. It is the principal custodian of the official records of the Government. Under the Federal Register Act and the Administrative Procedure Act, it preserves and publishes in the Federal Register the Executive orders, proclamations, and other principal Executive documents and it codifies and publishes the rules and regulations promulgated by the various departments and agencies. This work is generally similar in nature to, and much greater in volume than, that performed by the Department of State with respect to constitutional amendments, laws, and proclamations. Consequently, the consolidation of these activities of the State Department with the archival and records activities of the General Services Administration should make for greater efficiency and economy. The plan, however, does not transfer the custody and publication of treaties and international agreements, since they are matters of special concern to the Department of State and it is the agency most competent to edit such documents.

The handling of the certificates of Presidential electors and the compilation and publication of Territorial papers also more appropriately belong in the General Services Administration. The first is largely a matter of record keeping and the second of archival research. The preparation of the Territorial papers involves the compilation and editing of official documents of the various Territories formerly existing within the United States. The greater part of this material is now in the National Archives and the work involved is generally similar to that being performed by it with respect to other groups of public records.

In addition, the plan abolishes two statutory duties of the Secretary of State which have become obsolete. The first is the duty of procuring copies of all State statutes as provided in the act of September 23, 1789 (R. S. 206). Inasmuch as the Library of Congress now has a complete collection of the State laws, it is no longer necessary for the Department of State to maintain a complete collection. The second is the requirement, imposed by the act of July 31, 1876 (19 Stat. 105), as amended, that the Secretary of State publish proclamations and treaties in a newspaper in the District of Columbia. This is now unnecessary since proclamations are published in the Federal Register and treaties are made available currently in slip form in the Treaties and Other International Acts series.

After investigation I have found and hereby declare that each reorganization included in this plan is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The transfers provided by this plan will relieve the State Department of a number of functions that have no relation to its primary purpose and place them in an agency especially designed for the performance of such activities. Until

these functions are incorporated in the operations of the General Services Administration, it will not, of course, be practicable to determine the economies attributable to their transfer, but it is reasonable to expect modest yet worth-while savings to be achieved.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 20 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

STATUTES AT LARGE AND OTHER MATTERS

SECTION 1. *Functions transferred from Department of State to Administrator of General Services.*—There are hereby transferred to the Administrator of General Services the functions of the Secretary of State and the Department of State with respect to:

(a) The receipt and preservation of the original copies of bills, orders, resolutions, and votes (R. S. 204, as amended);

(b) The publication of acts and joint resolutions in slip form and the compilation, editing, indexing, and publication of the United States Statutes at Large, except such functions with respect to treaties and other international agreements (1 U. S. C. 112; R. S. 204, as amended; R. S. 210, as amended; R. S. 3805, as amended; R. S. 3806, as amended; Act of Jan. 12, 1895, 28 Stat. 609 and 615, as amended; Act of April 12, 1904, 33 Stat. 587);

(c) The certification and publication of amendments to the Constitution of the United States (R. S. 205) and the preservation of such amendments;

(d) Certificates of appointment of the electors of the President and Vice President and certificates of the votes of such electors for President and Vice President (3 U. S. C. 6, 11–13); and

(e) The collection, copying, arranging, editing, copy reading, and indexing of the official papers of the Territories (Act of March 3, 1925, 43 Stat. 1104, as amended; Act of July 31, 1945, 59 Stat. 510).

SEC. 2. *Abolition of functions.*—(a) The duty of the Secretary of State of procuring copies of all statutes of the several States is hereby abolished, but this shall not limit his authority to procure copies of such State statutes as may be needed in the performance of his functions (R. S. 206).

(b) The duty of the Secretary of State of publiishing Executive proclamations and treaties in a newspaper in the District of Columbia is hereby abolished (Act of July 31, 1876, 19 Stat. 105, as amended, 44 U. S. C. 321).

SEC. 3. *Performance of transferred functions.*—The Administrator of General Services may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the General Services Administration of any function transferred to such Administrator by the provisions of this reorganization plan.

SEC. 4. *Transfer to records, property, personnel, and funds.*—There are hereby transferred to the General Services Administration, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, the records and property now being used or held in connection with such functions, the personnel employed in connection with such functions, and the unexpended balances of appropriations, allocations, and other funds available or to be made available for use in connection with such functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

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81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 526

REORGANIZATION PLAN NO. 21 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 21 OF 1950, WHICH EFFECTS A BASIC REORGANIZATION OF THE FUNCTIONS OF THE UNITED STATES MARITIME COMMISSION ALONG THE LINES RECOMMENDED BY THE COMMISSION ON ORGANIZATION OF THE EXECUTIVE BRANCH OF THE GOVERNMENT

MARCH 13, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 21 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. This plan effects a basic reorganization of the functions of the United States Maritime Commission along the lines recommended by the Commission on Organization of the Executive Branch of the Government.

Within the last 3 years three different bodies have studied the administration of the Maritime Commission. All have concluded that the operating deficiencies of the agency arise from inappropriate and unsound organization and that a fundamental reorganization is essential. The first of these bodies, the President's Advisory Committee on the Merchant Marine, in 1947, stated:

> It appears to the Committee that the organization structure of the Maritime Commission as set up in the Merchant Marine Act of 1936 is wholly inadequate for the efficient conduct of the multitude of diverse activities for which the Maritime Commission is now responsible. The deficiencies of the statutory organization for administrative action are regarded by the Committee to be the most serious obstacle standing in the way of the development of the Merchant Marine of this country.

Similarly, the survey of the Maritime Commission in 1948 for the Senate Committee on Expenditures in the Executive Departments concluded that—

> The fundamental weakness of the Maritime Commission, as it is now constituted, lies in its proscribed organization.

On the basis of investigations of the Maritime Commission by two of its task forces, the Commission on Organization of the Executive Branch stated:

> It is an anomaly that a regulatory commission should also conduct the executive function of managing a huge business; that executive functions should be carried on by an agency that is not subject to Presidential directions; that executive functions should be carried on by a full-time board * * *.

While the recommendations of the various studies differ in some details, they agree on principles and on the main features of reorganization.

Basically, the administrative difficulties of the Maritime Commission have arisen, as all these studies agree, from the fact that the Commission is responsible for performing two fundamentally different types of functions which call for different types of organization. These two classes of functions are (*a*) regulatory and (*b*) operating and promotional. Under various acts the Commission regulates rates and services of water carriers; passes on agreements among carriers; and protects shippers against unfair and discriminatory practices. This type of activity requires the deliberation and independence of judgment which a board or commission is especially well designed to provide. But at the same time the Commission is charged with the conduct of a variety of large and costly promotional and business-type programs demanding the prompt and vigorous administration for which experience both in Government and in private enterprise has demonstrated that a single executive is essential.

The Maritime Commission has charge of the construction of merchant vessels for subsidized operators and for Government account. It owns and maintains the largest merchant fleet in the world, consisting of 2,200 vessels aggregating more than 22,000,000 dead-weight tons. It charters and sells ships and, in time of war or national emergency, requisitions and operates vessels for the Government. It grants construction and operating differential subsidies to private shipping companies to maintain an active privately operated American merchant marine. It makes loans and insures mortgages to assist carriers in acquiring new vessels, and it conducts programs for training officers and seamen for the merchant marine. For the present fiscal year the performance of these functions will involve the expenditure of approximately $162,000,000 and the direction of an organization of 5,500 employees. In short, the administration of the Maritime Commission is a vast business undertaking. Moreover, the work of the Commission affects significantly the interests of both business and labor in the maintenance of a sound maritime industry.

Further than this, many of the activities of the Maritime Commission are closely related to other programs of the Government and have to be coordinated with them. In the construction of a subsidized ship the Commission must cooperate with the Coast Guard on those features of design, materials, and equipment which affect the safety of the vessel and with the Navy on those which especially

affect the use of the ship for national defense. Furthermore, the whole program of subsidized ship construction needs to be adjusted to the plans and requirements for national defense. At the same time the Commission's programs for the development of the merchant marine must be coordinated with our foreign policy and with Federal programs with respect to other branches of transportation.

While an independent commission is an appropriate instrument for the performance of the regulatory functions of the Maritime Commission, such an agency obviously is not the type required to provide strong and efficient administration of the large operating programs now entrusted to the Commission or to obtain the needed coordination with other activities of the executive branch. This fact is amply demonstrated by the administrative difficulties and the complicated problems of coordination encountered in the operation of the Commission since the war and by the necessity of transferring a large part of its functions to the War Shipping Administration, headed by a single executive, during the war.

Briefly, this reorganization plan provides for a small Federal Maritime Board and a Maritime Administration in the Department of Commerce to perform the functions of the Maritime Commission, and abolishes the existing Commission. It transfers to the Board the regulatory functions of the Commission and definitely guarantees the independence of the Board in the performance of these functions. In addition, it vests directly in the Board the determination and award of construction and operating differential subsidies. In the performance of its subsidy functions the Board will be subject to general policy guidance by the Secretary of Commerce. The Board, however, and it alone, will determine to whom subsidies shall be granted and will make and award the subsidy contracts. Its actions therein will be conclusive and will not be subject to modification by any other agency or officer of the Department of Commerce. The other functions of the Maritime Commission, including carrying out the subsidy agreements made by the Board and administering the various operating programs, are transferred to the Secretary of Commerce for administration through the Maritime Administration. Thus, the plan provides for each of the two types of functions now vested in the Maritime Commission the type of organization best suited to its performance. At the same time, the plan will facilitate coordination of maritime policies and programs with other related policies and programs.

The division of functions under this plan conforms directly to the recommendations of the Commission on Organization of the Executive Branch of the Government. While the award of subsidies is a promotional rather than a regulatory function and might logically be assigned to the Maritime Administration instead of the Board, its impact on the shipping industry and on individual carriers is such as to make desirable the deliberation and combined judgment of a board. Accordingly, I have adhered to the recommendation of the Commission on Organization that this function be vested in a multiple body rather than a single official. Likewise, in line with the recommendations of the Commission, the plan assigns the determination of the over-all route pattern to the Secretary of Commerce.

The Maritime Board will consist of three members appointed by the President with the consent of the Senate for overlapping terms of

4 years. Not more than two of the members can be of the same political party. The Board, therefore, will be a smaller and more wieldy body which can function with greater expedition and efficiency than the existing five-member Commission. The Chairman will be designated by the President from the members of the Board and will be, ex officio, the Maritime Administrator and as such the head of the Maritime Administration. The plan also provides for a Deputy Maritime Administrator appointed by the Secretary of Commerce under the classified civil service. After investigation I have found, and hereby declare, that by reason of the reorganizations made by this plan, it is necessary to include in the plan provisions for the appointment and compensation of the members of the Federal Maritime Board and for the appointment of the Deputy Maritime Administrator.

In making the Chairman of the Federal Maritime Board the Maritime Administrator, the plan adopts an arrangement substantially similar to that which prevailed during the war, when the same individual served as Chairman of the Maritime Commission and head of the War Shipping Administration. This arrangement will have important advantages. It will facilitate cooperation between the Board and the Administration on matters of concern to both. Also, it will avoid dividing the personnel of the Maritime Commission, since the Chairman of the Board will supervise the personnel assisting it in the performance of its functions, as is now the case in the Maritime Commission, and in his capacity as Administrator he will have charge of the personnel carrying on the work of the Maritime Administration. The plan provides for the joint operation of the officers and employees under the Administrator and Chairman as a single body of personnel. The maintenance of a unified staff is essential for efficient and economical administration because many of the technical and professional personnel, such as ship designers and attorneys, now assist the Maritime Commission on problems of subsidy determination and also participate in the subsequent administration of subsidy agreements and in performing nonsubsidy functions.

The inclusion of the new Board in the Department of Commerce will permit the use of the administrative services of the Department. More important, it will eliminate the necessity of splitting the personnel of the Maritime Commission between the Department and an outside agency. In addition, it will relieve the President of having to handle relations with a separate maritime agency.

In establishing the Department of Commerce the Congress provided in the organic act of the Department that—

> It shall be the province and duty of said Department to foster, promote, and develop the foreign and domestic commerce, * * * shipping, * * * and the transportation facilities of the United States.

Over the years, however, transportation functions have become widely scattered throughout the executive branch. As a result, intelligent planning and budgeting of Federal transportation activities and the necessary coordination of transportation programs have become extremely difficult or impossible. The transfer of the functions of the Maritime Commission to the Department of Commerce will constitute a major step in correcting this condition.

Without question the Department of Commerce is now the appropriate center for transportation programs. It contains the Civil

Aeronautics Administration—the major operating and promotional agency of the Government in the field of air transportation—and the Weather Bureau, and the Coast and Geodetic Survey, which provide vital services to transportation. As a result of Reorganization Plan No. 7 of 1949, it now also includes the Bureau of Public Roads, the leading promotional agency dealing with land transportation. Also, it has the Inland Waterways Corporation in the field of water transportation. The transfer of the functions of the Maritime Commission will bring into the Department the principal water-transportation agency of the Government. These actions will go a long way toward the establishment of a sound and effective organization for the operating and promotional programs of the Government relating to transportation.

It is my purpose to look to the Secretary of Commerce for leadership with respect to transportation problems and for the development of over-all transportation policy within the executive branch. Because of the magnitude and importance of the transportation functions transferred to the Department of Commerce by this reorganization plan, I have found and hereby declare that it is necessary to strengthen the top administrative structure of the Department by providing for the appointment and compensation of a new Under Secretary of Commerce for Transportation. This will make available an officer of the highest rank to assist the Secretary in supervising the varied and complex transportation programs of the Department and providing central leadership in transportation matters. With the many responsibilities of the Secretary of Commerce in other areas, the creation of this office is essential to enable him properly to fulfill his obligations with respect to transportation.

After careful investigation I have found and I hereby declare that each of the reorganizations contained in this reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949. The rates of compensation fixed by the provisions of the reorganization plan for the Under Secretary of Commerce for Transportation, the Chairman, and the other two members of the Federal Maritime Board are, respectively, those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

In summary, the reorganizations provided by this plan will have the following principal advantages: They will provide an efficient organization headed by a single responsible official to administer the large operating and business-type programs of the Maritime Commission. At the same time, they will preserve the benefits of a bipartisan board for the performance of the regulatory functions of the Commission and the determination of subsidies. They will reduce the number of agencies reporting directly to the President and simplify the over-all management of the executive branch. In doing so, they will provide more adequate machinery for supervising the administration of the maritime programs and will facilitate their coordination with related policies and programs of the executive branch. Finally, they will accomplish a major advance in the development of an effective organization of Federal transportation programs in accord with the recommendations of the Commission on Organization of the Executive Branch of the Government. While it is impossible to estimate in advance the savings which will be brought about by this plan, the im-

provements in administrative efficiency resulting from it should produce substantial reductions in expenditures for the programs transferred by the plan.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 21 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

PART I. FEDERAL MARITIME BOARD

SECTION 101. *Creation of Federal Maritime Board.*—There is hereby established a Federal Maritime Board, hereinafter referred to as the Board.

SEC. 102. *Composition of the Board.*—(a) The Board shall be composed of three members, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The President shall from time to time designate one of such members to be the Chairman of the Board, hereinafter referred to as the Chairman.

(c) One of such members first appointed shall be appointed for a term expiring on June 30, 1952, another for a term expiring on June 30, 1953, and the third for a term expiring on June 30, 1954. Their successors shall be appointed for terms of four years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Not more than two of the members of the Board shall be appointed from the same political party. A vacancy in the office of any such member shall be filled in the same manner as the original appointment. The Chairman shall receive a salary at the rate of $16,000 per annum, and each of the other two members shall receive a salary at the rate of $15,000 per annum.

(d) A vacancy in the Board, so long as there shall be two members in office, shall not impair the power of the Board to execute its functions. Any two of the members in office shall constitute a quorum for the transaction of the business of the Board, and the affirmative votes of any two members of the Board shall be sufficient for the disposition of any matter which may come before the Board.

SEC. 103. *Transfer of functions to the Chairman.*—All functions of the Chairman of the United States Maritime Commission (including his functions under the provisions of Reorganization Plan Numbered 6 of 1949) with respect to the functions transferred to the Board by the provisions of sections 104 and 105 of this reorganization plan are hereby transferred to the Chairman of the Federal Maritime Board.

SEC. 104. *Transfer of regulatory functions to the Board.*—The following functions of the United States Maritime Commission are hereby transferred to the Board:

(1) All functions under the provisions of sections 14 to 20, inclusive, and sections 22 to 33, inclusive, of the Shipping Act, 1916, as amended (46 U. S. C. 812–819 and 821–832), including such functions with

respect to the regulation and control of rates, services, practices, and agreements of common carriers by water and of other persons.

(2) All functions with respect to the regulation and control of rates, fares, charges, classifications, tariffs, regulations, and practices of common carriers by water under the provisions of the Intercoastal Shipping Act, 1933, as amended (46 U. S. C. 843–848).

(3) The functions with respect to the making of rules and regulations affecting shipping in the foreign trade to adjust or meet conditions unfavorable to such shipping, and with respect to the approval, suspension, modification, or annulment of rules or regulations of other Federal agencies affecting shipping in the foreign trade, under the provisions of section 19 of the Merchant Marine Act, 1920, as amended (46 U. S. C. 876), exclusive of subsection (1) (a) thereof.

(4) The functions with respect to investigating discriminatory rates, charges, classifications, and practices in the foreign trade, and with respect to recommending legislation to correct such discrimination, under the provisions of section 212 (e) of the Merchant Marine Act, 1936 (46 U. S. C. 1122 (e)).

(5) So much of the functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda, under the provisions of section 21 of the Shipping Act, 1916, as amended (46 U. S. C. 820), as relates to the functions of the Board under the provisions of sections 104 (1) to 104 (4), inclusive, of this reorganization plan.

SEC. 105. *Transfer of subsidy award and other functions to the Board.*—The following functions of the United States Maritime Commission are hereby transferred to the Board:

(1) The functions with respect to making, amending, and terminating subsidy contracts, and with respect to conducting hearings and making determinations antecedent to making, amending, and terminating subsidy contracts, under the provisions of titles V, VI, and VIII, and sections 301, 708, 805 (a), and 805 (f) of the Merchant Marine Act, 1936, as amended (46 U. S. C. 1131, 1151–1182, 1198, 1211–1213, 1223 (a), and 1223 (f)), together with the functions with respect to making changes, subsequent to entering into an operating differential subsidy contract, in such determinations under the provisions of section 301 of such Act, as amended (46 U. S. C. 1131), and readjustments in determinations as to operating cost differentials under the provisions of section 606 of such Act, as amended (46 U. S. C. 1176), and with respect to the approval of the sale, assignment, or transfer of any operating subsidy contract under section 608 of such Act (46 U. S. C. 1178): *Provided*, That, for the purposes of this section 105 (1) of this reorganization plan, the term "subsidy contract" shall be deemed to include, in the case of a construction differential subsidy, the contract for the construction, reconstruction, or reconditioning of the vessel and the contract for the sale of the vessel to the subsidy applicant or the contract to pay a construction differential subsidy and the cost of national defense features, and, in the case of an operating differential subsidy, the contract with the subsidy applicant for the payment of the subsidy: *Provided further*, That, except as otherwise hereinbefore provided in respect of functions under sections 301, 606, and 608 of the Merchant Marine Act, 1936, as amended, the functions transferred by the provisions of this section 105 (1) shall exclude the making of all determinations and the

taking of all actions (other than amending or terminating any subsidy contract), subsequent to entering into any subsidy contract, which are involved in administering such contract: *Provided further*, That actions of the Board in respect of the functions transferred by the provisions of this section 105 (1) shall be final.

(2) The functions with respect to investigating and determining (a) the relative cost of construction of comparable vessels in the United States and foreign countries, (b) the relative cost of operating vessels under the registry of the United States and under foreign registry, and (c) the extent and character of aids and subsidies granted by foreign governments to their merchant marines, under the provisions of subsections (c), (d) and (e) of section 211 of the Merchant Marine Act, 1936 (46 U. S. C. 1121 (c), (d), and (e)).

(3) All functions under the provisions of section 12 of the Shipping Act, 1916, as amended (46 U. S. C. 811), including such functions with respect to making investigations and reports on relative costs and on marine insurance.

(4) So much of the functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda, under the provisions of section 21 of the Shipping Act, 1916, as amended (46 U. S. C. 820), as relates to the functions of the Board under the provisions of sections 105 (1) to 105 (3), inclusive, of this reorganization plan.

(5) So much of the functions with respect to adopting rules and regulations, making reports and recommendations to Congress, subpoenaing witnesses, administering oaths, taking evidence, and requiring the production of books, papers, and documents, under the provisions of sections 204, 208, and 214 of the Merchant Marine Act, 1936, as amended (46 U. S. C. 1114, 1118, and 1124), as relates to the functions of the Board under the provisions of this reorganization plan.

SEC. 106. *Status of Board and Chairman.*—The Board shall be an agency within the Department of Commerce. The Board, in respect of the functions transferred to it by the provisions of section 104 of this reorganization plan, and the Chairman, in respect of so much of the functions transferred to him by the provisions of section 103 of this reorganization plan as relates to functions of the Board under section 104 hereof, shall be independent of the Secretary of Commerce. In administering all other functions transferred to them by the provisions of this reorganization plan the Board and the Chairman shall be guided by the general policies of the Secretary of Commerce with respect to such functions.

PART II. MARITIME ADMINISTRATION

SECTION 201. *Creation of Maritime Administration.*—There is hereby established in the Department of Commerce a Maritime Administration.

SEC. 202. *Maritime Administrator.*—There shall be at the head of the Maritime Administration a Maritime Administrator, hereinafter referred to as the Administrator. The Chairman provided for in section 102 of this reorganization plan shall, ex officio, be the Administrator. The Administrator shall perform such duties as the Secretary of Commerce shall prescribe.

SEC. 203. *Deputy Maritime Administrator.*—There shall be in the Maritime Administration a Deputy Maritime Administrator, who shall be appointed by the Secretary of Commerce, after consultation with the Administrator, under the classified civil service, and who shall perform such duties as the Administrator shall prescribe. The Deputy Maritime Administrator shall be Acting Maritime Administrator during the absence or disability of the Administrator and, unless the Secretary of Commerce shall designate another person, during a vacancy in the office of Administrator: *Provided*, That such Deputy Administrator shall at no time sit as a member or acting member of the Federal Maritime Board.

SEC. 204. *Transfer of functions.*—Except as otherwise provided in part I of this reorganization plan, all functions of the United States Maritime Commission and of the Chairman of said Commission are hereby transferred to the Secretary of Commerce. The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by the Maritime Administrator of any function transferred to such Secretary by the provisions of this reorganization plan.

PART III. GENERAL PROVISIONS

SECTION 301. *Under Secretary of Commerce for Transportation.*—There shall be in the Department of Commerce an additional office of Under Secretary with the title "Under Secretary of Commerce for Transportation." The Under Secretary of Commerce for Transportation shall be appointed by the President, by and with the advice and consent of the Senate, shall receive compensation at the rate prescribed by law for Under Secretaries of Executive departments, and shall perform such duties as the Secretary of Commerce shall prescribe.

SEC. 302. *Joint utilization of personnel.*—In the interests of efficiency and economy, the Chairman and Administrator, insofar as he deems desirable, shall make joint use of the officers and employees under his supervision as Administrator or Chairman.

SEC. 303. *Conflict of interest.*—The provisions of the last sentence of section 201 (b) of the Merchant Marine Act, 1936 (46 U. S. C. 1111 (b)) (prohibiting any member, officer, or employee of the United States Maritime Commission from being in the employ of any other person, firm, or corporation, or from having any pecuniary interest in or holding any official relationship with any carrier by water, shipbuilder, contractor, or other person, firm, association, or corporation with whom the Commission may have business relations) shall hereafter be applicable to the members of the Federal Maritime Board and all officers and employees of the Federal Maritime Board or of the Maritime Administration.

SEC. 304. *Interim appointments.*—Pending the initial appointment hereunder of the members of the Federal Maritime Board, but not for a period exceeding ninety days, such officers of the executive branch of the Government (including any person who is a member of the United States Maritime Commission immediately prior to the taking effect of the provisions of this reorganization plan) as the President shall designate under the provisions of this section shall be acting members of the Federal Maritime Board. The President may designate one

of such acting members as Acting Chairman. Any such person shall while serving as acting member or Acting Chairman receive the compensation hereinabove prescribed for member and Chairman, respectively.

SEC. 305. *Transfer of personnel, property, records, and funds.*—There are hereby transferred to the Department of Commerce, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, all of the records, property, personnel, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) of the United States Maritime Commission. The Director of the Bureau of the Budget shall make such determinations and dispositions and take such measures, which shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate, as he shall deem to be consonant with the provisions of this reorganization plan and to be necessary in order to effectuate the transfers provided for in this section.

SEC. 306. *Abolition of Maritime Commission.*—The United States Maritime Commission, including the offices of the members of the Commission, is hereby abolished, and the Secretary of Commerce shall provide for the termination of any outstanding affairs of the Commission not otherwise provided for in this reorganization plan.

SEC. 307. *Relation to other reorganization plan.*—The functions transferred by the provisions of this reorganization plan shall not be subject to the provisions of Reorganization Plan Numbered 5 of 1950.

○

81ST CONGRESS
2D SESSION

S. RES. 265

IN THE SENATE OF THE UNITED STATES

APRIL 27 (legislative day, MARCH 29), 1950

Mr. BREWSTER submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 21 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 265

RESOLUTION

Disapproving Reorganization Plan Numbered 21 of 1950.

By Mr. BREWSTER

APRIL 27 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

Calendar No. 1685

81st Congress, 2d Session | SENATE | Report No. 1674

REORGANIZATION PLAN NO. 21 OF 1950, PROVIDING FOR ABOLITION OF THE MARITIME COMMISSION AND THE TRANSFER OF ITS FUNCTIONS TO THE DEPARTMENT OF COMMERCE

MAY 18 (legislative day, MARCH 29), 1950.—Ordered to be printed

MR. MCCLELLAN, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany S. Res. 265]

The Committee on Expenditures in the Executive Departments, to whom was referred Senate Resolution 265, expressing disapproval of Reorganization Plan No. 21 of 1950, reported the resolution without recommendation. The effect of the adoption of the resolution will be to prevent Reorganization Plan No. 21 from becoming effective.

PURPOSE

This reorganization plan provides for the establishment of a Federal Maritime Board, and a Maritime Administration in the Department of Commerce to which would be transferred all the functions of the United States Maritime Commission, in the following manner:

To Federal Maritime Board

(*a*) To the Chairman: Executive and administrative functions of present Chairman (including functions transferred by Reorganization Plan No. 6 of 1949).

(*b*) To the Board: Regulatory functions over rates, services, practices, tariff rules, etc.

(*c*) Subsidy awards, hearings, assignment or transfer of subsidies.

To Maritime Administration

(*a*) The administration of subsidy agreements made by the Board.

(*b*) Administration of the operating programs, such as ship construction, charter, operation, and sale.

(*c*) Maintenance and preservation of the reserve fleet, maintenance of Government-owned shipyards and terminals.

(*d*) Maritime training program.

The functions transferred to the Maritime Administration would be vested in the Secretary of Commerce with authority to redelegate such

responsibility to the new Administrator or any other subordinate. The Maritime Commission would be abolished.

BACKGROUND

Within the past 3 years three different groups have studied the administration of the Maritime Commission. All have concurred that the operating deficiencies of the agency arise from inadequate, inappropriate, and unsound organization, and that a fundamental reorganization is essential. The first study was made in 1947 by the President's Advisory Committee on the Merchant Marine. This committee stated:

> It appears to the committee that the organization structure of the Maritime Commission as set up in the Merchant Marine Act of 1936 is wholly inadequate for the efficient conduct of the multitude of diverse activities for which the Maritime Commission is now responsible. The deficiencies of the statutory organization for action are regarded by the committee to be the most serious obstacle standing in the way of the development of the merchant marine of this country.

In 1948 the staff of the Senate Committee on Expenditures in the Executive Departments made a management survey of the Maritime Commission and reported on December 31, 1948, in part, as follows:

> The Maritime Commission is generally considered to be an independent agency in the executive branch of the Government, but its position is anomalous. It is almost wholly independent of the President and he has virtually no power to require that it conform with the general policies of the Government. The Commissioners who direct the agency are appointed by the President, with the advice and consent of the Senate, and the Chairman of the Commission is named by the President. However, after they have been appointed, confirmed, and installed, they can act independently without fear of removal from office, except for neglect of duty or malfeasance, until the expiration of their 6-year terms.
>
> Although matters over which the Maritime Commission has control affect many other departments and agencies in the executive branch, it is possible for the Maritime Commission to be operated without regard to national policy. In times of emergency, this lack of correlation with other components of the Government could have serious results.
>
> It might be said that the Maritime Commission is responsible only to the Congress. However, this responsibility is nebulous and is only effective through the control of the purse strings and through specific substantive legislation.
>
> In the discharge of certain of its duties, its independence is an asset. In performing its quasi-judicial, quasi-legislative, and regulatory duties there is an advantage of shielding it from political influence and reprisals. However, as a promotional agency, as an operating arm of the Government, and as a potential military auxiliary, it should be controlled, directly or indirectly, by the President and be operated in conformance with current national policy (p. 3).

The report then concluded:

> The fundamental weakness of the Maritime Commission as it is now constituted lies in its prescribed organization.

The Hoover Commission in its report on the Department of Commerce, in discussing the Maritime Commission, stated:

> The United States Maritime Commission, made up of full time members, has a dual function. It exercises regulatory functions affecting the whole merchant marine and, at the same time, buys, sells, and subsidizes shipping and makes loans on ships on a huge scale.
>
> It is an anomaly that a regulatory commission should also conduct the executive function of managing a huge business; that executive functions should be carried on by an agency that is not subject to Presidential direction; that executive functions should be carried on by a full time board of which all members have equal responsibility and authority, instead of by a single administrator (p. 17).

Basically the administrative difficulties of the Maritime Commission as it is now constituted arise from the fact that the agency is responsible for administering two types of programs which are incompatible and diametrically opposed to each other. These programs are (*a*) regulatory and (*b*) operating and promotional. Management consultants and organization specialists who have participated in the surveys discussed above agree that the regulatory functions of the Maritime Commission should be performed by a separate organizational component from that which is responsible for the operating and promotional activities.

FEDERAL MARITIME BOARD

Reorganization Plan No. 21 provides for the establishment of a Federal Maritime Board to be composed of three members, who would be appointed by the President and confirmed by the Senate.

The Board members would be appointed for terms of 4 years and the President would designate the Chairman, who would be ex-officio Administrator of Maritime Administration. Not more than two members of the Board would be of the same political party.

The Board would be an agency within the Department of Commerce, but independent in carrying out its responsibility in respect to holding hearings, recruiting and supervision of its regulatory personnel, issuing rules and regulations, establishing rates, tariffs, and related functions, but coordinated with the general policies of the Secretary of Commerce, in performing its subsidy functions.

MARITIME ADMINISTRATION

As indicated above, the Chairman of the Federal Maritime Board would be ex-officio Administrator of the Maritime Administration. The plan also provides for a Deputy Maritime Administrator to be appointed by the Secretary of Commerce, after consultation with the Administrator. The Deputy Administrator would be under the classified civil service and perform such duties as prescribed by the Administrator, but would not sit as a member or acting member of the Federal Maritime Board.

GENERAL PROVISIONS

Under Secretary of Commerce.—The plan provides for the establishment of an office of Under Secretary of Commerce for Transportation.

Joint utilization of personnel.—The Chairman and Administrator shall make joint use of the employees under his control as Administrator or Chairman.

Conflict of interest.—The provision contained in section 201 (b) of the Merchant Marine Act of 1936, which prohibits any commissioner, officer, or employee of the Maritime Commission who has a pecuniary interest in water carriers, contractors, shipbuilders, etc., from employment by the Commission, is extended by this plan to all officers and employees of both the Board and the Maritime Administration.

Interim appointments.—Until other Board members are appointed, the present Commissioners shall continue in office until new appointments are made, but such members shall not continue in office in excess of 90 days unless reappointed.

Transfer of records, property, and funds.—The records, property, personnel, and funds of the Maritime Commission will be transferred to the Department of Commerce to be used and expended in connection with the purpose of this transfer; however, the Director of the Bureau of the Budget is authorized to make such determinations or dispositions as he feels consonant with the plan.

Abolition of Maritime Commission.—The United States Maritime Commission would be abolished, and the Secretary of Commerce would terminate any outstanding affairs not otherwise provided under this plan.

The functions transferred under this plan are not subject to the provisions of Plan No. 5 of 1950 (which would transfer to the Secretary of Commerce all of the functions heretofore vested in subordinates of that Department).

HOOVER COMMISSION RECOMMENDATIONS

The Hoover Commission recommended (No. 2 in its report on Department of Commerce and No. 9 on regulatory commissions) that the functions of ship construction and the operation, charter, and sale of ships be transferred from the Maritime Commission to the Department of Commerce, and that the functions relating to rates, conditions of service, and the granting of subsidies remain with the Commission.

The above recommendations were based upon the conclusion of the Hoover Commission's task-force report on independent regulatory commissions (staff report on U. S. Maritime Commission, pt. 4, p. 32), which are summarized as follows:

1. Creation of Maritime Administration

A. A Maritime Administration, headed by an Administrator should be established in the executive branch.

B. The Administrator should take over from the Maritime Commission all its operating, administrative, promotional, and other functions except as stated in 2 below.

C. The Administration should be part of an appropriate Department: In peacetime, the Department of Transportation, if one is established or, if not, the Department of Commerce; * * * and in time of war, the Department of Defense.

2. Changes in Maritime Commission

A. If recommendation 1 is adopted, the Maritime Commission should continue as a five-man independent agency—

(1) It should exercise regulatory control over rates, fares, charges, agreements, and practices in the maritime industry, upon complaint by the Administrator.

(2) The Commission should also have authority, upon the petition of carriers, to investigate the administration of the subsidy program by the Administrator and to report publicly its conclusions.

B. If the Maritime Administration is not established (as recommended in 1 above), the Chairman of the Maritime Commission should be made responsible to the President for the administration of the agency and for policy making as to its operating functions.

Other general observations of the Hoover Commission relating to reorganization of the Maritime Commission follows:

(*a*) Appointment of Commissioners are frequently below standard because of inadequate salaries or appreciation of the importance of the position.

(*b*) Purely executive duties have been imposed on the Commissioners with no one really vested with over-all authority.

(*c*) The amount of work in the regulatory field has been so heavy that promotional functions have been neglected.

(*d*) Delegation of authority to the staff is practically nonexistent.

(*e*) The Chairman is too frequently the presiding officer with no over-all planning responsibility.

(*f*) Lack of coordination between the Commission and executive departments (pp. 3 and 4 of Rept. No. 12, on regulatory commissions).

MINORITY VIEW OF THE COMMISSION

Commissioners Brown and Pollock dissented from the majority, in that they believed that all of the regulatory functions in the transportation field should be consolidated in a single transportation regulatory commission, and that the Maritime Commission should be abolished in favor of a new agency created to take over its regulatory functions.

TESTIMONY FOR AND AGAINST REORGANIZATION PLAN NO. 21

Witnesses who appeared in support of Reorganization Plan No. 21 and against the resolution of disapproval included Frederick J. Lawton, Director, Bureau of the Budget; the Honorable Charles Sawyer, Secretary of Commerce (accompanied by Paul M. Zeis); Philip B. Fleming, Chairman, United States Maritime Commission; Grenville Mellen, Vice Chairman, United States Maritime Commission; and Robert L. L. McCormick, research director, Citizens Committee for the Hoover Report.

Opponents of the plan included the sponsor of the resolution of disapproval, Senator Owen Brewster; Donald Conn, executive vice president, the Transportation Association of America; the Honorable Clarence F. Lea, the Transportation Association of America; A. G. Anderson, vice president, the National Industrial Traffic League; James M. Souby, general solicitor, the Association of American Railroads; C. A. Miller, vice president and general counsel, the American Short Line Railroad Association; and L. R. Sanford, president, Shipbuilders Council of America.

Senator Brewster, in his statement before the committee quoted the Citizens Committee for the Hoover Report as stating that—

> it is in part consistent with and in part goes considerably further than the Hoover Commission's program. Transfer of business operations of the Maritime Commission to the Department of Commerce and retention of a considerable degree of independence by the proposed new regulatory agency accord with recommendations of the Hoover Commission. There is a question, however, whether the proposed Federal Maritime Board within the Department would have the extent of independence of a separate regulatory agency recommended by the Commission.

Senator Brewster's principal objection to the plan, which was supported by other witnesses who testified in behalf of the adoption of the resolution of disapproval, was due to the fact that—

> it apparently envisions the accomplishment of a concentrated transportation agency that would cover all phases.

He and succeeding witnesses emphasized the fact that the Hoover Commission had recommended the creation of a centralized transportation service in the Department of Commerce, and that this was one of several indicated steps which would be designed to carry out this program which would include, under the newly created Under Secretary of Commerce for Transportation all of the transportation functions now vested in not only the Maritime Commission but the ICC, CAB, and other agencies dealing with regulatory functions in the transportation field.

All witnesses, both for and against the plan, admitted the present administrative deficiency in the Maritime Commission, and readily agreed that some action must be taken either by the President or the Congress to correct the existing situation. The question was raised by the proponents of the resolution, however, as to whether or not this approach was the proper one, and whether it would lead to other actions which would permit the Secretary of Commerce, under powers granted to him under the plan, to establish general route patterns which could cripple the American merchant marine.

Testimony in favor of the resolution of disapproval, and in opposition to the plan, developed the following additional points:

(1) The plan would set a pattern of policy which is regarded as a highly objectionable innovation of the general transportation policies of the country.

(2) The proposal revives in substance an administrative procedure previously tried in the early thirties, but which failed to achieve the national objective of promoting the merchant marine, as a result of which the Merchant Marine Act of 1936 was passed, creating an independent agency for that purpose.

(3) If drastic changes are required in the Maritime Commission, and in the act of 1936, such changes should be initiated and accomplished through legislative channels, with adequate opportunity afforded for full hearings, and not by Executive order or by a reorganization plan.

(4) It is not possible or practical to separate completely regulatory and promotional functions relating to a method of transportation such as the merchant marine.

(5) The effect of submerging the administrative functions of the Maritime Commission in a department of the executive branch, already vested with broad responsibility and varied activities, is to relegate the problems of the merchant marine further down the line and remove those immediately in charge from any direct contact with the Congress or the Executive, except through the proposed Under Secretary and the Secretary, either or both of whom may have no direct knowledge or familiarity with technical maritime affairs.

(6) There is no evidence whatsoever that consolidation necessarily means economy in Government operations. Neither is there any indication or assurance that the proposed transfer will result in aggressive, constructive action in the administration of merchant-marine affairs. On the contrary, there is every indication that history will repeat itself and the Government may find itself in the same position as it was in 1933.

(7) The members of the Maritime Board, and particularly the Chairman, would be not only politically appointed, but would

have to be politically minded. There would be no vestige of independence such as the Congress has sought to provide for the regulatory agencies which it created beginning with the Interstate Commerce Commission.

Witnesses appearing in opposition to the resolution of disapproval maintained that the plan would improve the general administration of the Maritime Commission by vesting the over-all supervision of its functions in the Secretary of Commerce and through the utilization of facilities now located in that Department. It was also contended that the vesting of the authority within the Secretary to establish trade routes could be adequately controlled by the Congress through statutory limitations, and that there was no reason to believe that the Secretary of Commerce would abuse any such authority vested in him by the plan, and for which he could be held strictly accountable to the Congress.

Robert L. L. McCormick, research director for the Citizens Committee for the Hoover Report, testified that Reorganization Plan No. 21 was analyzed by the staff of the citizens committee and it was believed that the plan offered a workable solution to an extraordinary complex administrative matter. He further stated that the committee believed the plan is a practical, generalized application of the Hoover Commission's recommendations for the reorganization of the Maritime Commission and for the reorientation for the Department of Commerce. He further stated that the plan is in general conformance with the specific recommendations of the Hoover Commission (Recommendation No. 2, report on the Department of Commerce) although, in putting the regulatory as well as the nonregulatory functions in the Commerce Department, the plan diverges from the Commission's program in some degree.

It was maintained by other witnesses supporting the plan that it accords with the recommendations of the Hoover Commission, with reference to the transfer of business operations of the Maritime Commission to the Department of Commerce with an independent agency to be established to retain the functions relating to rates, conditions of service, and the grant of subsidies. Such witnesses insisted that the regulatory functions, vested in the Board established by the plan, mainly involve the review and approval of conference agreements among shipping companies, the prevention of unfair discriminatory practices on the part of water carriers, and the regulations of shipping rates between the continental United States and its Territories and possessions; and that all regulatory functions as specifically provided in the plan will be independent of the Secretary of Commerce. They also contended that the plan, in addition—

provided through the Secretary a means of coordinating subsidy policies with other policies and programs for the development of commerce and transportation, and with national defense and other programs of the executive branch with which the development of the merchant marine is vitally related.

In commenting on the main objection made to the plan by the transportation groups represented at the hearings as outlined above, the Director of the Bureau of the Budget stated that—

this reorganization plan will constitute another major step toward the effectuation of this recommendation (Hoover Commission Recommendation No. 2 in its report on the Department of Commerce, and No. 9 on regulatory commissions) and the development of a sound and effective organization of transportation pro-

grams * * *. These transfers (including Reorganization Plan No. 7, 1949, and the nonregulatory agencies dealing with land, air, and water transportation now located in the Department) will enable the Department to live up to the terms of its organic act, which makes it the duty of the Department to foster, promote, and develop the foreign and domestic commerce shipping and the transportation facilities of the United States.

The Director concluded that the establishment of an Under Secretary of Commerce for Transportation is necessary to help—

lighten the burden on the Secretary and enable him to meet more fully his responsibilities in the field of transportation.

The hearings indicated that the basis of the opposition to Reorganization Plan No. 21 is not so much on the provisions of the plan itself as on what it portends for the future. Practically every witness appearing in favor of the resolution of disapproval expressed a fear that this plan, if it becomes effective, will be a step toward the submission of other plans which would tend to destroy the independence of regulatory agencies operating in the transportation field. Particular concern was expressed for the possible transfer of certain of the regulatory functions of the ICC to the Department of Commerce to become an adjunct to the proposed transportation service (recommended by the Hoover Commission) to be established in the Department of Commerce.

Appendix A

[H. Doc. No. 526, 81st Cong., 2d sess.]

Message From the President of the United States, Transmitting Reorganization Plan No. 21 of 1950, Which Effects a Basic Reorganization of the Functions of the United States Maritime Commission Along the Lines Recommended by the Commission on Organization of the Executive Branch of the Government

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 21 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. This plan effects a basic reorganization of the functions of the United States Maritime Commission along the lines recommended by the Commission on Organization of the Executive Branch of the Government.

Within the last 3 years three different bodies have studied the administration of the Maritime Commission. All have concluded that the operating deficiencies of the agency arise from inappropriate and unsound organization and that a fundamental reorganization is essential. The first of these bodies, the President's Advisory Committee on the Merchant Marine, in 1947, stated:

"It appears to the Committee that the organization structure of the Maritime Commission as set up in the Merchant Marine Act of 1936 is wholly inadequate for the efficient conduct of the multitude of diverse activities for which the Maritime Commission is now responsible. The deficiencies of the statutory organization for administrative action are regarded by the Committee to be the most serious obstacle standing in the way of the development of the merchant marine of this country."

Similarly, the survey of the Maritime Commission in 1948 for the Senate Committee on Expenditures in the Executive Departments concluded that "The fundamental weakness of the Maritime Commission, as it is now constituted, lies in its proscribed organization." On the basis of investigations of the Maritime Commission by two of its task forces, the Commission on Organization of the Executive Branch stated:

"It is an anomaly that a regulatory commission should also conduct the executive function of managing a huge business; that executive functions should be carried on by an agency that is not subject to Presidential directions; that executive functions should be carried on by a full-time board * * *."

While the recommendations of the various studies differ in some details, they agree on principles and on the main features of reorganization.

Basically, the administrative difficulties of the Maritime Commission have arisen, as all these studies agree, from the fact that the Commission is responsible for performing two fundamentally different types of functions which call for different types of organization. These two classes of functions are (*a*) regulatory and (*b*) operating and promotional. Under various acts the Commission regulates rates and services of water carriers; passes on agreements among carriers; and protects shippers against unfair and discriminatory practices. This type of activity requires the deliberation and independence of judgment which a board or commission is especially well designed to provide. But at the same time the Commission is charged with the conduct of a variety of large and costly promotional and business-type programs demanding the prompt and vigorous administration for which experience both in Government and in private enterprise has demonstrated that a single executive is essential.

The Maritime Commission has charge of the construction of merchant vessels for subsidized operators and for Government account. It owns and maintains the largest merchant fleet in the world, consisting of 2,200 vessels aggragating more than 22,000,000 dead-weight tons. It charters and sells ships and, in time of war or national emergency, requisitions and operates vessels for the Government. It grants construction and operating differential subsidies to private shipping companies to maintain an active privately operated American merchant marine. It makes loans and insures mortgages to assist carriers in acquiring new vessels, and it conducts programs for training officers and seamen for the merchant marine. For the present fiscal year the performance of these functions will involve the expenditure of approximately $162,000,000 and the direction of an organization of 5,500 employees. In short, the administration of the Maritime Commission is a vast business undertaking. Moreover, the work of the Commission affects significantly the interests of both business and labor in the maintenance of a sound maritime industry.

Further than this, many of the activities of the Maritime Commission are closely related to other programs of the Government and have to be coordinated with them. In the construction of a subsidized ship the Commission must cooperate with the Coast Guard on those features of design, materials, and equipment which affect the safety of the vessel and with the Navy on those which especially affect the use of the ship for national defense. Furthermore, the whole program of subsidized ship construction needs to be adjusted to the plans and requirements for national defense. At the same time the Commission's programs for the development of the merchant marine must be coordinated with our foreign policy and with Federal programs with respect to other branches of transportation.

While an independent commission is an appropriate instrument for the performance of the regulatory functions of the Maritime Commission, such an agency, obviously, is not the type required to provide strong and efficient administration of the large operating programs now entrusted to the Commission or to obtain the needed coordination with other activities of the executive branch. This fact is amply demonstrated by the administrative difficulties and the complicated problems of coordination encountered in the operation of the Commission since the war and by the necessity of transferring a large part of its functions to the War Shipping Administration, headed by a single executive, during the war.

Briefly, this reorganization plan provides for a small Federal Maritime Board and a Maritime Administration in the Department of Commerce to perform the functions of the Maritime Commission, and abolishes the existing Commission. It transfers to the Board the regulatory functions of the Commission and definitely guarantees the independence of the Board in the performance of these functions. In addition, it vests directly in the Board the determination and award of construction and operating differential subsidies. In the performance of its subsidy functions the Board will be subject to general policy guidance by the Secretary of Commerce. The Board, however, and it alone, will determine to whom subsidies shall be granted and will make and award the subsidy contracts. Its actions therein will be conclusive and will not be subject to modification by any other agency or officer of the Department of Commerce. The other functions of the Maritime Commission, including carrying out the subsidy agreements made by the Board and administering the various operating programs, are transferred to the Secretary of Commerce for administration through the Maritime Administration. Thus, the plan provides for each of the two types of functions now vested in the Maritime Commission the type of organization best suited to its performance. At the same time, the plan will facilitate coordination of maritime policies and programs with other related policies and programs.

The division of functions under this plan conforms directly to the recommendations of the Commission on Organization of the Executive Branch of the Govern-

ment. While the award of subsidies is a promotional rather than a regulatory function and might logically be assigned to the Maritime Administration instead of the Board, its impact on the shipping industry and on individual carriers is such as to make desirable the deliberation and combined judgment of a board. Accordingly, I have adhered to the recommendation of the Commission on Organization that this function be vested in a multiple body rather than a single official. Likewise, in line with the recommendations of the Commission, the plan assigns the determination of the over-all route pattern to the Secretary of Commerce.

The Maritime Board will consist of three members appointed by the President with the consent of the Senate for overlapping terms of 4 years. Not more than two of the members can be of the same political party. The Board, therefore, will be a smaller and more wieldy body which can function with greater expedition and efficiency than the existing five-member Commission. The Chairman will be designated by the President from the members of the Board and will be, ex officio, the Maritime Administrator and as such the head of the Maritime Administration. The plan also provides for a Deputy Maritime Administrator appointed by the Secretary of Commerce under the classified civil service. After investigation I have found, and hereby declare, that by reason of the reorganizations made by this plan, it is necessary to include in the plan provisions for the appointment and compensation of the members of the Federal Maritime Board and for the appointment of the Deputy Maritime Administrator.

In making the Chairman of the Federal Maritime Board the Maritime Administrator, the plan adopts an arrangement substantially similar to that which prevailed during the war, when the same individual served as Chairman of the Maritime Commission and head of the War Shipping Administration. This arrangement will have important advantages. It will facilitate cooperation between the Board and the Administration on matters of concern to both. Also, it will avoid dividing the personnel of the Maritime Commission, since the Chairman of the Board will supervise the personnel assisting it in the performance of its functions, as is now the case in the Maritime Commission, and in his capacity as Administrator he will have charge of the personnel carrying on the work of the Maritime Administration. The plan provides for the joint operation of the officers and employees under the Administrator and Chairman as a single body of personnel. The maintenance of a unified staff is essential for efficient and economical administration because many of the technical and professional personnel, such as ship designers and attorneys, now assist the Maritime Commission on problems of subsidy determination and also participate in the subsequent administration of subsidy agreements and in performing nonsubsidy functions.

The inclusion of the new Board in the Department of Commerce will permit the use of the administrative services of the Department. More important, it will eliminate the necessity of splitting the personnel of the Maritime Commission between the Department and an outside agency. In addition, it will relieve the President of having to handle relations with a separate maritime agency.

In establishing the Department of Commerce the Congress provided in the organic act of the Department that—

"It shall be the province and duty of said Department to foster, promote, and develop the foreign and domestic commerce, * * * shipping, * * * and the transportation facilities of the United States."

Over the years, however, transportation functions have become widely scattered throughout the executive branch. As a result, intelligent planning and budgeting of Federal transportation activities and the necessary coordination of transportation programs have become extremely difficult or impossible. The transfer of the functions of the Maritime Commission to the Department of Commerce will constitute a major step in correcting this condition.

Without question the Department of Commerce is now the appropriate center for transportation programs. It contains the Civil Aeronautics Administration—the major operating and promotional agency of the Government in the field of air transportation—and the Weather Bureau, and the Coast and Geodetic Survey, which provide vital services to transportation. As a result of Reorganization Plan No. 7 of 1949, it now also includes the Bureau of Public Roads, the leading promotional agency dealing with land transportation. Also, it has the Inland Waterways Corporation in the field of water transportation. The transfer of the functions of the Maritime Commission will bring into the Department the principal water-transportation agency of the Government. These actions will go a long way toward the establishment of a sound and effective organization for the operating and promotional programs of the Government relating to transportation.

It is my purpose to look to the Secretary of Commerce for leadership with respect to transportation problems and for the development of over-all transportation policy within the executive branch. Because of the magnitude and importance of the transportation functions transferred to the Department of Commerce by this reorganization plan, I have found and hereby declare that it is necessary to strengthen the top administrative structure of the Department by providing for the appointment and compensation of a new Under Secretary of Commerce for Transportation. This will make available an officer of the highest rank to assist the Secretary in supervising the varied and complex transportation programs of the Department and providing central leadership in transportation matters. With the many responsibilities of the Secretary of Commerce in other areas, the creation of this office is essential to enable him properly to fulfill his obligations with respect to transportation.

After careful investigation I have found and I hereby declare that each of the reorganizations contained in this reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949. The rates of compensation fixed by the provisions of the reorganization plan for the Under Secretary of Commerce for Transportation, the Chairman, and the other two members of the Federal Maritime Board are, respectively, those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

In summary, the reorganizations provided by this plan will have the following principal advantages: They will provide an efficient organization headed by a single responsible official to administer the large operating and business-type programs of the Maritime Commission. At the same time, they will preserve the benefits of a bipartisan board for the performance of the regulatory functions of the Commission and the determination of subsidies. They will reduce the number of agencies reporting directly to the President and simplify the over-all management of the executive branch. In doing so, they will provide more adequate machinery for supervising the administration of the maritime programs and will facilitate their coordination with related policies and programs of the executive branch. Finally, they will accomplish a major advance in the development of an effective organization of Federal transportation programs in accord with the recommendations of the Commission on Organization of the Executive Branch of the Government. While it is impossible to estimate in advance the savings which will be brought about by this plan, the improvements in administrative efficiency resulting from it should produce substantial reductions in expenditures for the programs transferred by the plan.

HARRY S. TRUMAN.

THE WHITE HOUSE, *March 13, 1950.*

REORGANIZATION PLAN NO. 21 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

PART I. FEDERAL MARITIME BOARD

SECTION 101. *Creation of Federal Maritime Board.*—There is hereby established a Federal Maritime Board, hereinafter referred to as the Board.

SEC. 102. *Composition of the Board.*—(a) The Board shall be composed of three members, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The President shall from time to time designate one of such members to be the Chairman of the Board, hereinafter referred to as the Chairman.

(c) One of such members first appointed shall be appointed for a term expiring on June 30, 1952, another for a term expiring on June 30, 1953, and the third for a term expiring on June 30, 1954. Their successors shall be appointed for terms of four years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Not more than two of the members of the Board shall be appointed from the same political party. A vacancy in the office of any such member shall be filled in the same manner as the original appointment. The Chairman shall receive a salary at the rate of $16,000 per annum, and each of the other two members shall receive a salary at the rate of $15,000 per annum.

(d) A vacancy in the Board, so long as there shall be two members in office, shall not impair the power of the Board to execute its functions. Any two of the

members in office shall constitute a quorum for the transaction of the business of the Board, and the affirmative votes of any two members of the Board shall be sufficient for the disposition of any matter which may come before the Board.

SEC. 103. *Transfer of functions to the Chairman.*—All functions of the Chairman of the United States Maritime Commission (including his functions under the provisions of Reorganization Plan Numbered 6 of 1949) with respect to the functions transferred to the Board by the provisions of sections 104 and 105 of this reorganization plan are hereby transferred to the Chairman of the Federal Maritime Board.

SEC. 104. *Transfer of regulatory functions to the Board.*—The following functions of the United States Maritime Commission are hereby transferred to the Board:

(1) All functions under the provisions of sections 14 to 20, inclusive, and sections 22 to 33, inclusive, of the Shipping Act, 1916, as amended (46 U. S. C. 812–819 and 821–832), including such functions with respect to the regulation and control of rates, services, practices, and agreements of common carriers by water and of other persons.

(2) All functions with respect to the regulation and control of rates, fares, charges, classifications, tariffs, regulations, and practices of common carriers by water under the provisions of the Intercoastal Shipping Act, 1933, as amended (46 U. S. C. 843–848).

(3) The functions with respect to the making of rules and regulations affecting shipping in the foreign trade to adjust or meet conditions unfavorable to such shipping, and with respect to the approval, suspension, modification, or annulment of rules or regulations of other Federal agencies affecting shipping in the foreign trade, under the provisions of section 19 of the Merchant Marine Act, 1920, as amended (46 U. S. C. 876), exclusive of subsection (1) (a) thereof.

(4) The functions with respect to investigating discriminatory rates, charges, classifications, and practices in the foreign trade, and with respect to recommending legislation to correct such discrimination, under the provisions of section 212 (e) of the Merchant Marine Act, 1936 (46 U. S. C. 1122 (e)).

(5) So much of the functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda, under the provisions of section 21 of the Shipping Act, 1916, as amended (46 U. S. C. 820), as relates to the functions of the Board under the provisions of sections 104 (1) to 104 (4), inclusive, of this reorganization plan.

SEC. 105. *Transfer of subsidy award and other functions to the Board.*—The following functions of the United States Maritime Commission are hereby transferred to the Board:

(1) The functions with respect to making, amending, and terminating subsidy contracts, and with respect to conducting hearings and making determinations antecedent to making, amending, and terminating subsidy contracts, under the provisions of titles V, VI, and VIII, and sections 301, 708, 805 (a), and 805 (f) of the Merchant Marine Act, 1936, as amended (46 U. S. C. 1131, 1151–1182, 1198, 1211–1213, 1223 (a), and 1223 (f)), together with the functions with respect to making changes, subsequent to entering into an operating differential subsidy contract, in such determinations under the provisions of section 301 of such Act, as amended (46 U. S. C. 1131), and readjustments in determinations as to operating cost differentials under the provisions of section 606 of such Act, as amended (46 U. S. C. 1176), and with respect to the approval of the sale, assignment, or transfer of any operating subsidy contract under section 608 of such Act (46 U. S. C. 1178): *Provided*, That, for the purposes of this section 105 (1) of this reorganization plan, the term "subsidy contract" shall be deemed to include, in the case of a construction differential subsidy, the contract for the construction, reconstruction, or reconditioning of the vessel and the contract for the sale of the vessel to the subsidy applicant or the contract to pay a construction differential subsidy and the cost of national defense features, and, in the case of an operating differential subsidy, the contract with the subsidy applicant for the payment of the subsidy: *Provided further*, That, except as otherwise hereinbefore provided in respect of functions under sections 301, 606, and 608 of the Merchant Marine Act, 1936, as amended, the functions transferred by the provisions of this section 105 (1) shall exclude the making of all determinations and the taking of all actions (other than amending or terminating any subsidy contract), subsequent to entering into any subsidy contract, which are involved in administering such contract: *Provided further*, That actions of the Board in respect of the functions transferred by the provisions of this section 105 (1) shall be final.

(2) The functions with respect to investigating and determining (a) the relative cost of construction of comparable vessels in the United States and foreign coun-

tries, (b) the relative cost of operating vessels under the registry of the United States and under foreign registry, and (c) the extent and character of aids and subsidies granted by foreign governments to their merchant marines, under the provisions of subsections (c), (d) and (e) of section 211 of the Merchant Marine Act, 1936 (46 U. S. C. 1121 (c), (d), and (e)).

(3) All functions under the provisions of section 12 of the Shipping Act, 1916, as amended (46 U. S. C. 811), including such functions with respect to making investigations and reports on relative costs and on marine insurance.

(4) So much of the functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda, under the provisions of section 21 of the Shipping Act, 1916, as amended (46 U. S. C. 820), as relates to the functions of the Board under the provisions of sections 105 (1) to 105 (3), inclusive, of this reorganization plan.

(5) So much of the functions with respect to adopting rules and regulations, making reports and recommendations to Congress, subpoenaing witnesses, administering oaths, taking evidence, and requiring the production of books, papers, and documents, under the provisions of sections 204, 208, and 214 of the Merchant Marine Act, 1936, as amended (46 U. S. C. 1114, 1118, and 1124), as relates to the functions of the Board under the provisions of this reorganization plan.

SEC. 106. *Status of Board and Chairman.*—The Board shall be an agency within the Department of Commerce. The Board, in respect of the functions transferred to it by the provisions of section 104 of this reorganization plan, and the Chairman, in respect of so much of the functions transferred to him by the provisions of section 103 of this reorganization plan as relates to functions of the Board under section 104 hereof, shall be independent of the Secretary of Commerce. In administering all other functions transferred to them by the provisions of this reorganization plan the Board and the Chairman shall be guided by the general policies of the Secretary of Commerce with respect to such functions.

PART II. MARITIME ADMINISTRATION

SECTION 201. *Creation of Maritime Administration.*—There is hereby established in the Department of Commerce a Maritime Administration.

SEC. 202. *Maritime Administrator.*—There shall be at the head of the Maritime Administration a Maritime Administrator, hereinafter referred to as the Administrator. The Chairman provided for in section 102 of this reorganization plan shall, ex officio, be the Administrator. The Administrator shall perform such duties as the Secretary of Commerce shall prescribe.

SEC. 203. *Deputy Maritime Administrator.*—There shall be in the Maritime Administration a Deputy Maritime Administrator, who shall be appointed by the Secretary of Commerce, after consultation with the Administrator, under the classified civil service, and who shall perform such duties as the Administrator shall prescribe. The Deputy Maritime Administrator shall be Acting Maritime Administrator during the absence or disability of the Administrator and, unless the Secretary of Commerce shall designate another person, during a vacancy in the office of Administrator: *Provided*, That such Deputy Administrator shall at no time sit as a member or acting member of the Federal Maritime Board.

SEC. 204. *Transfer of functions.*—Except as otherwise provided in part I of this reorganization plan, all functions of the United States Maritime Commission and of the Chairman of said Commission are hereby transferred to the Secretary of Commerce. The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by the Maritime Administrator of any function transferred to such Secretary by the provisions of this reorganization plan.

PART III. GENERAL PROVISIONS

SECTION 301. *Under Secretary of Commerce for Transportation.*—There shall be in the Department of Commerce an additional office of Under Secretary with the title "Under Secretary of Commerce for Transportation." The Under Secretary of Commerce for Transportation shall be appointed by the President, by and with the advice and consent of the Senate, shall receive compensation at the rate prescribed by law for Under Secretaries of Executive Departments, and shall perform such duties as the Secretary of Commerce shall prescribe.

SEC. 302. *Joint utilization of personnel.*—In the interests of efficiency and economy, the Chairman and Administrator, insofar as he deems desirable, shall make joint use of the officers and employees under his supervision as Administrator or Chairman.

SEC. 303. *Conflict of interest.*—The provisions of the last sentence of section 201 (b) of the Merchant Marine Act, 1936 (46 U. S. C. 1111 (b)) (prohibiting any member, officer, or employee of the United States Maritime Commission from being in the employ of any other person, firm, or corporation, or from having any pecuniary interest in or holding any official relationship with any carrier by water, shipbuilder, contractor, or other person, firm, association, or corporation with whom the Commission may have business relations) shall hereafter be applicable to the members of the Federal Maritime Board and all officers and employees of the Federal Maritime Board or of the Maritime Administration.

SEC. 304. *Interim appointments.*—Pending the initial appointment hereunder of the members of the Federal Maritime Board, but not for a period exceeding ninety days, such officers of the executive branch of the Government (including any person who is a member of the United States Maritime Commission immediately prior to the taking effect of the provisions of this reorganization plan) as the President shall designate under the provisions of this section shall be acting members of the Federal Maritime Board. The President may designate one of such acting members as Acting Chairman. Any such person shall while serving as acting member or Acting Chairman receive the compensation herein-above prescribed for member and Chairman, respectively.

SEC. 305. *Transfer of personnel, property, records, and funds.*—There are hereby transferred to the Department of Commerce, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, all of the records, property, personnel, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) of the United States Maritime Commission. The Director of the Bureau of the Budget shall make such determinations and dispositions and take such measures, which shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate, as he shall deem to be consonant with the provisions of this reorganization plan and to be necessary in order to effectuate the transfers provided for in this section.

SEC. 306. *Abolition of Maritime Commission.*—The United States Maritime Commission, including the offices of the members of the Commission, is hereby abolished, and the Secretary of Commerce shall provide for the termination of any outstanding affairs of the Commission not otherwise provided for in this reorganization plan.

SEC. 307. *Relation to other reorganization plan.*—The functions transferred by the provisions of this reorganization plan shall not be subject to the provisions of Reorganization Plan Numbered 5 of 1950.

APPENDIX B

The following letter was received by the chairman of the committee with regard to the relationship between the proposed Federal Maritime Board and the Secretary of Commerce, which is submitted for information of the Senate:

DEPARTMENT OF COMMERCE,
Washington 25, May 11, 1950.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Expenditures in the Executive Departments,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: During the course of my testimony before your committee on May 8 concerning Reorganization Plan No. 21 of 1950, questions were raised about the relationship between the proposed Federal Maritime Board and the Secretary of Commerce. I would like to summarize briefly my interpretation of the plan in this respect.

The Maritime Commission now has three kinds of functions—regulatory, operating, and subsidy.

(1) *Regulatory functions.*—Under section 104 of the plan the regulatory functions now vested in the Maritime Commission would be transferred to the Board, and would be exercised by the Board completely independently of the Department. The plan would, therefore, make no change in the present independence of judgment and decision with respect to regulatory functions.

(2) *Operating functions.*—Under section 204 of the plan the operating functions now vested in the Commission would be transferred to the Department, to be exercised, through the proposed Maritime Administration, in the same way as

the Civil Aeronautics Administration and the Inland Waterways Corporation carry out their respective functions.

(3) *Subsidy functions.*—The subsidy functions now vested in the Commission involve two separate elements: (*a*) the establishment of the trade-route pattern and (*b*) the awarding of individual subsidies for operation over approved trade routes. Under the plan the first of these two elements is vested in the Secretary of Commerce, and the second is vested in the Board, which, however, in the exercise of its subsidy functions, "shall be guided by the general policies of the Secretary of Commerce with respect to such functions."

Under the plan the establishment of the trade-route pattern under sections 211 (a) and 211 (b) of the Merchant Marine Act of 1936 is clearly vested in the Secretary and not in the Board. These provisions of the act include the power to determine essential trade routes, the power to determine the types of vessels which should be employed in such services, and the frequency of service. Under these provisions, I would expect to follow the present practice of laying out the essential route patterns in broad and general terms. The plan envisages that, after the Secretary of Commerce has made these determinations, the Maritime Board, operating within the framework of the trade-route pattern established by the Secretary, will award the subsidies and in making the awards will determine who will receive the payments and how extensive they will be.

These awards are not subject to review by the Secretary since section 105 clearly states that the actions of the Board in respect to the making of subsidy awards shall be final. This finality applies, of course, only if the Board operates within the trade-route pattern established by the Secretary.

Since actions of the Board within the approved trade-route pattern are final, and are not subject to review by the Secretary, it would not be appropriate to go so far as to say that the Board, in taking these actions, would be "subject to" the general policies of the Secretary. The plan does provide, as indicated, that the Board "shall be guided by" these general policies, and I see no reason to doubt that they will do so.

I should like to emphasize the fact that in administering the functions vested in it under the plan the Department will be acting under the declaration of policy set forth in the Merchant Marine Act of 1936. This declaration of policy is as follows:

"It is necessary for the national defense and development of its foreign and domestic commerce that the United States shall have a merchant marine (*a*) sufficient to carry its domestic water-borne commerce and a substantial portion of the water-borne export and import of foreign commerce of the United States and to provide shipping service on all routes essential for maintaining the flow of such domestic and foreign water-borne commerce at all times; (*b*) capable of serving as a naval and military auxiliary in time of war or national emergency; (*c*) owned and operated under the United States flag by citizens of the United States, insofar as may be practicable; and (*d*) composed of the best equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel. It is declared to be the policy of the United States to foster the development and encourage the maintenance of such a merchant marine" (46 U. S. C. sec. 1101; 49 Stat. 1985).

I believe in these policies and will give them my full support. This Department has indicated on numerous occasions that the United States must have a domestic fleet adequate to meet its commercial needs and that in the interests of national security we must also have a substantial foreign-trade fleet. In my report to the President on transportation policy I recognized the fact that, because of higher American costs, subsidies are necessary to maintain a foreign-trade fleet. I have also pointed out that operating shipyards with trained manpower for the construction and maintenance of the merchant fleet are an integral part of a vigorous merchant marine. I am convinced that under Reorganization Plan No. 21, the policies of the Merchant Marine Act of 1936 will be carried out vigorously, and will result in a strong and up-to-date merchant marine.

Sincerely yours,

CHARLES SAWYER,
Secretary of Commerce.

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Calendar No. 1685

81ST CONGRESS
2D SESSION

S. RES. 265

[Report No. 1674]

IN THE SENATE OF THE UNITED STATES

APRIL 27 (legislative day, MARCH 29), 1950

Mr. BREWSTER submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 18 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, without recommendation

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 21 of 1950 transmitted to Congress by the President on March 13, 1950.

Calendar No. 1685

81ST CONGRESS
2D SESSION

S. RES. 265

[Report No. 1674]

RESOLUTION

Disapproving Reorganization Plan Numbered 21 of 1950.

By Mr. BREWSTER

APRIL 27 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 18 (legislative day, MARCH 29), 1950
Reported without recommendation

The Constitution of the United States was adopted upon the principle of majority rule. Seventy-seven Delegates were invited to the Constitutional Convention. Fifty-five came and 39 remained. Had such a rule as the present Senate rule been in existence at that time, and had it been controlling of the action of the Delegates who were considering adopting the Constitution, we would have failed in our attempt to establish constitutional government. We never would have adopted the Constitution. The only provision in the Constitution providing for a two-thirds majority vote is one which provides for a simple two-thirds majority, not a so-called constitutional two-thirds majority. The two-thirds majority vote rule applies to impeachment proceedings, ratification of treaties, to the expelling of a Member or to overriding the veto of the President or submitting constitutional amendments.

Mr. President, I think it is time to revise the rules of the Senate on the basis of simple majority rule. This so-called constitutional two-thirds majority, which is not constitutional, which violates the Constitution ought to be eliminated from the rules of the Senate. I shall suggest to the majority leader that we have a new rule come out of the Committee on Rules and Administration which will permit the Senate of the United States to act for the best interests of the people.

The PRESIDING OFFICER. The time of the junior Senator from Minnesota has expired.

Mr. BREWSTER. Mr. President, I am sure the Senator from Minnesota has made a valuable contribution. I think it has brought to the fore the real issue here. I was present when the other difficulty rose over the rules, and up to the time of the adoption of the present rule there was no way under heaven of stopping discussion even on a motion to consider the measure. Adoption of the new rule is a step in the right direction. Many will agree it does not go far enough, but it is fully in the purview of the Senate at any time to proceed again, though the Senate will come to the same dead end on a motion to change the rule. It cannot be taken up. That has been the roadblock. We adopted the 64-vote rule only because we could not get anything else. We could get that, however. Now if the Senator from Minnesota and other of his associates, with their persuasive eloquence, can make a further advance, it is one which will be appreciated. But I do not think there should be criticism of those who have achieved as much as we have achieved up to date.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. BREWSTER. I yield.

Mr. HUMPHREY. It is not my desire simply to rehash the past. I think the present moment is a tragic one. I think it is a very bad moment for the Republican Party, for the Democratic Party and for the people of America. I prefer to thing of tomorrow, and to think of what we are going to do. I for one want to see the issue fought out. We have much time to stay here and fight it out.

Mr. President, I want to see the rules of this body amended in such a way that we will give, first of all, consideration to the American people so that irresponsible, reckless charges cannot be made on the floor of the Senate with the privileges of immunity, and, second, that we will carry out our responsibilities in respect to legislation for the benefit of the American people, and will carry out our responsibility not by words but by performance.

REORGANIZATION PLAN NO. 21 OF 1950

Mr. BREWSTER. Mr. President, I move that the pending motion be temporarily laid aside, and that the Senate proceed to consider Senate Resolution 265, dealing with the proposed abolition of the Maritime Commission.

The PRESIDING OFFICER. The motion will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A resolution (S. Res. 265) disapproving Reorganization Plan No. 21 of 1950, reported from the Committee on Expenditures in the Executive Departments without recommendation.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maine that the motion to proceed to the consideration of Senate bill 1725 be temporarily laid aside, and that the Senate proceed to consider Senate Resolution 265. The motion was agreed to; and the Senate proceeded to consider the resolution (S. Res. 265) as follows:

Resolved, That the Senate does not favor the Reorganization Plan No. 21 of 1950 transmitted to Congress by the President on March 13, 1950.

Mr. BREWSTER. I should like now to move a limitation of debate, but I should like to have the Senate hear first from my friend the Senator from Washington.

Mr. MAGNUSON. Mr. President, I should first like to ask the Senator from Maine how long he himself expects to discuss the resolution.

Mr. BREWSTER. I expect 15 minutes will be ample for the proponents.

Mr. MAGNUSON. Second, I wish to ask the Senator from Maine whether he expects that the Senate shall vote on the resolution today.

Mr. BREWSTER. I hope the Senate will vote on it today. We are coming near to the dead line. We have only Monday and Tuesday to consider such resolutions. I do not know what may come up. We have a larger attendance now than we have had for some time.

Mr. MAGNUSON. I expect to take at least 45 minutes to an hour myself on the matter.

Mr. BREWSTER. I have canvassed the situation as well as I can, and the Senator from Minnesota is the only Senator who indicated a desire to speak on the subject. He asked for only 15 minutes. I would accordingly move that the debate be limited to an hour and a half, to be divided equally between either the Senator from Maine and the Senator from Minnesota [Mr. HUMPHREY] or the Senator from Washington [Mr. MAGNUSON].

Mr. MAGNUSON. I could not agree on such a time limitation.

Mr. BREWSTER. The Senator does not need to. I think it desirable that some time limitation be fixed, however.

I move that debate be limited to one hour and a half, the time to be divided equally between the Senator from Maine and the Senator from Minnesota.

Mr. MAGNUSON. Mr. President——

The PRESIDING OFFICER. Just a moment until the Chair states the question. The motion is that debate on Senate Resolution 265 be limited to 3 hours, an hour and a half to each side.

Mr. BREWSTER. No, Mr. President. The motion was that debate be limited to an hour and a half.

The PRESIDING OFFICER. The Chair begs the Senator's pardon.

The question is on the motion of the Senator from Maine that debate be limited to an hour and a half, the time to be divided equally, and to be controlled by the Senator from Maine and the Senator from Washington.

Mr. MAGNUSON. Mr. President, I shall have to oppose that motion. I do not think we can present the case in an hour and a half.

The PRESIDING OFFICER. The motion is not debatable.

Mr. MAGNUSON. Is not a motion to limit debate open to debate?

The PRESIDING OFFICER. No. Under the reorganization law such a motion is not debatable.

Mr. EASTLAND. I suggest the absence of a quorum.

Mr. MAGNUSON. In my opinion, Mr. President, a motion to limit debate is, under the Senate rules, a debatable motion, and is not limited by the Reorganization Act.

The PRESIDING OFFICER. Under the Reorganization Act itself it is provided that a motion to consider a resolution or a motion to limit debate shall be decided without debate.

Mr. MAGNUSON. Then I suggest the absence of a quorum.

Mr. BREWSTER. We have discussed that particular question over and over again for the past week or 10 days.

Mr. MAGNUSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent to withdraw my suggestion of the absence of a quorum and that the order for the call of the roll may be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREWSTER. Mr. President, I move that the time for debate on Senate Resolution 265 be limited to 1 hour and one-half, to be divided equally between myself and the Senator from Washington or the Senator from Minnesota, whichever Senator wishes to handle the time.

Mr. HUMPHREY. I shall be glad to do so.

Mr. BREWSTER. Very well; the time to be divided equally between the Senator from Minnesota [Mr. HUMPHREY] and the Senator from Maine.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BREWSTER. I yield.

Mr. MAGNUSON. In order that the Senate may be informed, let me say that it is my understanding that under the rule regarding reorganization plans, inasmuch as the resolution of disapproval of the plan is not subject to amendment, the effect of the motion just agreed to is that the Senate will vote on this matter at approximately 4 o'clock. Is that correct?

Mr. BREWSTER. That is correct.

I hope the vote may occur even a little earlier than that, because I doubt whether those of us on this side of the question will use the entire time available to us. If that occurs, we shall be happy to allow a little more time to Senators on the other side of this issue.

Does the Senator from Minnesota care to proceed?

Mr. HUMPHREY. No. I prefer that the Senator from Maine proceed. I shall speak later on.

Mr. BREWSTER. Mr. President, I shall try to persuade my two dissenting colleagues and point out that this reorganization plan is in a distinct category from most of the others we have considered. First, there was plan 6, which was adopted last year without objection, which carried out the reorganization contemplated by the Hoover Commission, and which has been operative for about 7 months. There had been exhaustive examination of the affairs of the Maritime Commission, concerned with the conduct of its affairs, prior to the time of this reorganization proposal, that is, covering the fiscal years 1948 and 1949, but not applying to its operation under the reorganization recommended by the Hoover Commission, carried into effect by the President under plan 6, without objection either by the Senate or by the House. We now face plan No. 21, of which the citizens' committee dealing with this program says in its report:

> The plan 21 is in part consistent with, and in part goes considerably further than, the Hoover Commission's program.

That refers to the fact that under this plan the Commission is made for all practical purposes a subordinate agency of the Department of Commerce. It gives to the Secretary of Commerce not only the power to lay down general policies—and just what the meaning of that phrase is is not clear, but it is certainly very broad in its language, and, too, Congress was supposed to lay down the policies for the functioning of this independent Commission—but, in addition, it provides, as testified by the Secretary of Commerce, that the Secretary of Commerce shall have the power to determine routes. The power to determine routes strikes directly at the base of the power of the Maritime Commission. Authority to determine whether a given route shall be subsidized is of the very essence of the power of the Commission. I asked the Secretary of Commerce, Mr. Sawyer, for whose intelligence and integrity I have the highest regard, particularly after the frank way in which he testified, about this matter. He said yes; that was the power lodged in his hands, and the responsibility. I asked him how he could exercise it. I asked him how many men he had in his department. He testified that he had 46,000 employees in his department. I said, "It is not, of course, feasible for you to do this job of determining routes all over the world, it is?" He admitted that was so. So that he would either be obliged to defer to the Commission, which very frequently might be his action, or he would be obliged in order to carry out his responsibility to set up another executive agency, as contemplated under the Under Secretary of Commerce, provision for whom is made in the plan which would not be a measure of economy.

A new Under Secretary of Commerce necessarily means a large number of employees associated with his office to assist him in fulfilling these new functions. Instead of efficiency and streamlining, and in contradistinction to the objectives of the Hoover report, this would expand and diffuse the responsibility so that either the Secretary or the Under Secretary would have to set up independent groups to determine the route allocations, and then the Maritime Commission would be obliged to go ahead and determine what lines, if any, should be put upon a given route. The question of what lines shall run on a route is still left to the determination of the Maritime Commission.

I am fortified in my impression that this plan is distinct from any of the ones we have had, by an editorial which appeared this morning in the New York Herald Tribune, which has been a constant friend of the Hoover Commission reorganization. It is an editorial dealing with this matter, and from it I should like to read very briefly:

> Among the 21 reorganization proposals which Mr. Truman submitted to Congress in March, 19 were close to the spirit of the commission's recommendations. Two, however—those relating to the National Labor Relations Board and the Maritime Commission—diverged sharply; the first constituted an effort by Mr. Truman to legislate Mr. Denham, the NLRB counsel, out of office, and the second would have destroyed the Maritime Commission's independence in a field where the Hoover Commission believed it should be retained.

I ask that the entire editorial be incorporated in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE PRESIDENT'S ERROR

The results of the President's error in playing politics with the Hoover Commission reports are now glaringly apparent. Among the 21 reorganization proposals which Mr. Truman submitted to Congress in March, 19 were close to the spirit of the Commission's recommendations. Two, however—those relating to the National Labor Relations Board and the Maritime Commission—diverged sharply; the first constituted an effort by Mr. Truman to legislate Mr. Denham, the NLRB counsel, out of office, and the second would have destroyed the Maritime Commission's independence in a field where the Hoover Commission believed it should be retained. These mistakes were all that the congressional opponents of reorganization needed. One after another, proposals on the rest of the program are being voted down.

The President does not appear to have realized that the task of streamlining the Government was so big, so delicate, that it would need all the prestige of the Hoover Commission behind every plan, all of the popular support that could be mustered. The fear of Congressmen—and the many interests affected by Government agencies—that efficiency would be used as an excuse for executive unsurpation, is very strong. The quality of the leadership and membership in the Hoover Commission was high enough to give the proponents of governmental reform a fighting chance. But when Mr. Truman loaded down his plans with palpable efforts to achieve political ends, all the supporters of the status quo leaped joyfully into the struggle, and are making a hash of the whole program.

It might be argued, with justice, that Congress should be more selective, that the Senators who are using arguments which are only valid against a few of the reorganization plans to condemn them all, are being neither fair nor wise. But it was the President who gave the initial grounds for suspicion and it is he who must bear the final responsibility. The reforms projected by the Hoover Commission are urgently needed; they are basic to any attempt to cut Government costs by efficient administration. Mr. Truman's efforts to use reorganization for any other purpose casts doubt upon his sincerity in tackling this problem at all, and jeopardizes a great national movement.

Mr. BREWSTER. Mr. President, that I think establishes pretty clearly that this Maritime Commission proposal is in a class by itself, or at least in a class or two by itself, and it is to be pointed out and borne in mind that the proposal to place these powers in the Secretary of Commerce constitutes what could certainly be termed a second phase. The first phase was the concentration of responsibility in the Chairman, the issue we have been arguing here all week and against which the Senate has repeatedly decided. That phase, however, was carried out under plan 6, and it has been in effect for the past 7 months. I very much hope the Senate will decide to let it operate for a while longer before taking another step, which would be quite inconsistent with the position of the Hoover Commission, particularly since this very solution was tried in 1933, soon after the former Democratic administration came into power. For 3 years the Maritime Commission was administered under the Department of Commerce, with such unfortunate effect that the action was then rescinded and the independent status of the Maritime Commission reconstituted. The Hoover Commission, in its report, declared in favor of the independence of the Maritime Commission, which would certainly be destroyed by the action which is here contemplated.

I desire to say a word also about the situation as to the acceptance or rejection of these plans. There is a feeling throughout the country, perhaps very naturally, that the Hoover Commission

recommendations are not faring so well. That is a result of the fact that we have taken up those to which we have objected and have rejected some of them. The score, however, is not at all so bad as one would infer from a reading of the entirely accurate reports in the press.

Last year there were seven plans reported, or which six were accepted without serious question. The one concerned with the social welfare was rejected, and the other six went into effect. The reorganization of the Maritime Commission, consolidating its executive functions in the Chairman, in accordance with the Hoover Commission recommendation, was accepted under plan 6.

This year there have been 21 plans submitted, of which 11 have been accepted, apparently without question, as no resolutions have even been offered to reject them. The other 10 are still under question, aside from the 3 or 4 which have already been rejected. So I think the country is quite in error in the assumption that the recommendations of the Hoover Commission are not receiving considerate and sympathetic attention.

Mr. MALONE. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. DOUGLAS in the chair). Does the Senator from Maine yield to the Senator from Nevada?

Mr. BREWSTER. I will in a moment.

This is made very clear in an article on the editorial page of the New York Times this morning, by Arthur Krock. I ask unanimous consent that the article be inserted in the RECORD at this point, in order to support the proposition, as he says the net score of the Hoover report is still good.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NET SCORE ON HOOVER REPORTS STILL GOOD

(By Arthur Krock)

WASHINGTON, May 18.—Though the Senate has disapproved the first 5 of the 21 plans to reorganize the executive branch which the President submitted in March, and prospects for 6 more are dim, friends of the general enterprise are not downhearted. Some of them offer this explanation of the Senate's current rejections:

1. The administration exceeded or altered the recommendations of the Commission headed by former President Hoover, sometimes fundamentally, as in the instance of the plan to return the functions of the general counsel of the National Labor Relations Board to the members of the Board.

2. The President, by giving precedence to certain plans that were open to charges of partisan animation, and by the timing of those he submitted, materially changed the Commission's plan of procedure.

3. These tactics enabled Members of Congress who oppose the entire reorganization concept because they want to protect certain Government personnel to cite bases of opposition more acceptable to the large public which the Citizen's Committee, the Junior Chamber of Commerce, etc., have assembled in favor of the Hoover Commission reports. In the words of Senator LODGE, of Massachusetts, coauthor of the resolution which established the Commission, "they gave everybody an out."

But Mr. LODGE is only one of those who believe that what has already been made effective in the Commission program justifies its creation and its cost. And many of these also feel that, though administration tactics will prevent the attainment of the economy that otherwise was possible, the net score will be considerable when all the plans have been acted on.

THE HISTORY SO FAR

In 1949, when the reorganization plans submitted were much more faithful to the Commission's proposals, all but one became effective. The exception established a new Department of Welfare. The remaining six shifted two employment units to the Department of Labor; added to the powers of the Postmaster General; put the National Security Council and the National Security Resources Board into the President's executive office; increased the administrative powers of the Chairmen of the Civil Service and Maritime Commissions and transferred the administration of public roads to the Department of Commerce.

The 1950 submissions, 21 in number, of which the Senate has already rejected 5, to date have drawn 17 resolutions to disapprove 11 of them. By the terms of the General Reorganization Act a constitutional majority of either the House or the Senate (which means one more than half of the entire Membership) is sufficient to reject a plan. This arrangement was opposed by the administration and by many of the members of the Hoover Commission. But, while it might have been responsible for the disapproval of a good, nonpolitical plan even if the administration had been more faithful to the Commission's blueprints, the arrangement is in the public interest. The political pressure a President can successfully exert on the House is fortified by the restrictive rules of that branch.

If, as the administration urged, disapproval by constitutional majorities of both the House and the Senate had been required to kill any plan the President submitted, the legislative branch would have been too greatly subordinated in business where its responsibility is at least as great as the Executive's. Already, by the veto powers granted him in the Constitution, the President can prevent the enactment of any legislation except that which is supported by two-thirds majorities of the House and the Senate. And these must be assembled and held together for the act of overriding a veto.

TOO MUCH POWER

To have made it possible for the President to reorganize any part of the executive branch and the independent, semi-judicial agencies and commissions unless both branches of Congress disapproved by constitutional majorities would have given him a new affirmative power as great as the negative one he derives from the veto. And, once a statute is enacted, this veto power enables the President to defeat the will of a two-thirds majority of one legislative branch and one short of a two-thirds majority of the other if these favor repeal of the statute. He can disapprove the repeal, and it can be effected only by two-thirds majorities in both the House and the Senate on a motion to override.

These facts induced many legislators who are sincere believers in the Hoover Commission's work to deny the Executive request that, to disapprove a reorganization plan, it must be rejected by constitutional majorities of both branches.

Of the 1950 crop the Senate followed the advice of the banking community and the Secretary of the Treasury in voting, 65 to 13, against the new Treasury plan. By 66 to 13 it defeated reorganization of the Interstate Commerce Commission that would have taken away its independence of the Executive. It voted 50 to 23 against the Federal Communications Commission plan, and 63 to 12 against the most controversial proposal—that which affected the National Labor Relations Board.

But, if the American Legion's overture of protest against legislation carrying out reports 2, 9, 14, and 15 of the Hoover Commission is an indication of how noisy this actual battle will be, we haven't heard any real uproar yet.

Mr. MALONE. Mr. President, will the Senator yield?

Mr. BREWSTER. I yield.

Mr. MALONE. I should like to ask the distinguished senior Senator from Maine, in regard to the plans which have been turned down by the Senate, if most of the plans submitted were not perverted to a certain extent, giving the Executive more power, as in the case of the labor council, as in the case of the Interstate Commerce Commission, and in several other instances, where it was not the intention of the Hoover Commission or of Mr. Hoover that we should place more power in the hands of the Executive, but it was the intention to save money and to improve the administration of such branches of the Government without placing more power in the hands of the already too powerful Executive.

Mr. BREWSTER. I think it is very clear that the Hoover Commission did not contemplate dealing with questions of policy, which are certainly implicit in the Maritime Commission proposal, nor did it contemplate destroying the independence of the Commission. It did contemplate a concentration of power in the Chairman of the Commission, but not what could be construed as control of policies. I am sure that has been the reason why some of the plans have been rejected. In this particular case the plan is not one about which I think there will be any argument. It radically alters the policy-making function of the Commission in taking away from it the determination of routes to certain areas of the world.

Mr. MALONE. That would destroy its effectiveness.

Mr. BREWSTER. It certainly would destroy its independence and stability. The curious part of it is that there are two functions dealing with subsidies. One is the so-called construction subsidy; the other is the route subsidy. On the construction subsidy there has been much argument, although some of those who have argued have come out of the same place wherein they went. The subject has been under very careful study. In 1948 and 1949 the Committee on Expenditures in the Executive Departments studied it, and the matter is having most careful scrutiny.

The route subsidy is a phase of the program which has operated with most amazing success, such success, I think, as cannot be matched in the annals of our recent fiscal policy, since on the route subsidy, in the past 10 years, the total expense of the Government for the entire subsidy program has amounted to a net of approximately $10,000,000 as a result of the payments made by the shipping lines from their profits. That conclusively demonstrates, to my mind, the wisdom of the way in which the Maritime Commission has exercised its responsibilities in the allocation and determination of routes. That is the very power

which is now proposed to be taken away from it, whereas the other power, which has been in controversy and has been subjected to some criticism, is the one still left with the Commission. That is a rather curious way to go about it.

Mr. MALONE. Mr. President, will the Senator yield further?

Mr. BREWSTER. I shall be glad to yield.

Mr. MALONE. It has been a matter of considerable importance to the junior Senator from Nevada as to how we can make the people understand that some of these plans are not reaching the Senate in the same form in which they were recommended by the Hoover Commission. For example, most of the chambers of commerce, the junior chambers of commerce, and the women's clubs were entirely sold on the idea of the Hoover plans of reorganization, and Members of the Senate were also sold on them. The majority on this side of the aisle created the Reorganization Commission, thinking we would have a President who would put the plans into effect, save money, and spread the authority so that it could not be abused. Some of the soundest people in the United States are sold on the Hoover Commission reorganization plans but know nothing about the reorganization plans as actually submitted to the Senate and have no time at this late date to learn of the type of reorganization plan in each case as it arrives on the Senate floor. It is a serious disappointment to the people who have gone out systematically and sold the Hoover plans to counties and districts within their States that now it is found necessary to cut the throat of some of the trick plans finally served up on the Senate floor. For example, last year, when Mr. Oscar Ewing was going into the Cabinet, he had openly announced intention of putting into effect a form of socialized medicine and several other plans which had not been passed upon by the Congress. We had, therefore, to defeat the plan we had fathered.

Mr. BREWSTER. I am limited as to time, but I will say that the Senator from Arkansas [Mr. McCLELLAN] and the Senator from North Carolina [Mr. HOEY] are very close together on this matter of economy, and I think that one of the things they have found in the programs, certainly in connection with the current proposal, is that there is no substantial evidence to indicate any economy which would result. We are, instead, creating another officer under the Secretary of Commerce to administer functions which are being taken away from the Maritime Commission and placed in the Department of Commerce. There must be a whole coterie of persons to advise and furnish the Secretary with studies. So it would seem that the almost inevitable result would be that it would be uneconomical rather than otherwise.

I am sorry I am limited in time.

Mr. MALONE. The Senator is doing a very good job in presenting the matter to the Senate.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BREWSTER. I yield.

Mr. MAGNUSON. Of course the Secretary of Commerce has stated over and over again that in taking over the administrative functions of the Maritime Commission he did not intend to hire any more employees. The fact is that he probably will screen them out and have fewer persons perform those administrative functions. The only addition to personnel would be the establishment of the office of an assistant Secretary.

Mr. BREWSTER. An Under Secretary, I think it is.

Mr. MAGNUSON. It would amount purely to an office staff. The net result, in the opinion of the Maritime Commission, would be the abolishment of several jobs; particularly, persons now employed in the Maritime Commission would be screened out.

Mr. BREWSTER. The question was gone into rather carefully by the committee when the Secretary was testifying. I think, if the Senator will read the testimony of the Secretary of Commerce, he will see that it was not contemplated that there would be any economies, and there was no evidence presented as to any economies which would result from this action. Certainly, if there were any, they were negligible.

On the other hand, there was the danger, as I have pointed out, that unless the Secretary or the Under Secretary accepted the commission as the functioning agency, it would be necessary to have more persons to do the job. If they accept the commission, why create additional jobs? That is the anomaly in the situation.

Mr. MAGNUSON. I do not want to take the Senator's time. There may be some discussion to the effect that it would not result in economy in personnel, but there has never been any indication that it would result in an increase in personnel.

Mr. BREWSTER. I was making that suggestion based entirely on the discussion.

Mr. THYE. Mr. President, will the Senator yield in order that I may make a unanimous-consent request?

Mr. BREWSTER. I yield for that purpose.

Mr. THYE. Mr. President, I ask unanimous consent that I may be absent from the Senate the remainder of this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THYE. Mr. President, will the Senator yield?

Mr. BREWSTER. I yield.

Mr. THYE. Mr. President, it is my understanding that Reorganization Plan No. 21 would be voted on this afternoon, and Senate Resolution 265 is the resolution which opposes this reorganization plan. Were I present at the time the vote is taken I would vote for Senate Resolution 265 disapproving Reorganization Plan No. 21.

The PRESIDING OFFICER. The Chair takes note of the fact that although the Senator from Minnesota was excused from attendance on the sessions of the Senate for the remainder of this afternoon, his physical as well as astral body was present for some minutes thereafter.

Mr. BREWSTER. I think I have stated the reasons, Mr. President. In the first place, the plan is not in accord with the Hoover Commission report, as the Citizens Committee clearly pointed out. They singled it out as one plan which clearly went beyond the recommendation. Second, because the Maritime Commission has already experienced reorganization by vesting the powers in the Chairman, which is contemplated under most of the plans we are discussing. Third, because it returns to a program which was demonstrated did not operate successfully from 1933 to 1936.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. BREWSTER. I yield.

Mr. JOHNSON of Colorado. Does the Senator understand that the present plan may set a pattern for the formation of a department of transportation in one of the executive departments?

Mr. BREWSTER. That is implicit in some of the statements which have been made regarding it. I know it is a matter of concern to many of the witnesses who have testified.

Mr. JOHNSON of Colorado. Can the Senator tell the Senate to what extent shippers and others interested in maritime matters are opposed to this plan.

Mr. BREWSTER. So far as I know, opposition is almost unanimous. I have a list of the agencies which oppose it. They are the American Association of Railroads, American Waterways Association, American Trucking Association, Air Transport Association, Isbrandsen Steamship Co., Shortline Railroad Association, National Industrial Traffic League, Southern Traffic League, Southwest Industrial Traffic League, Texas Traffic League, Freight Forwarders, National Lumber Manufacturers, Transportation Association of America, Shipbuilders Council, and Mississippi Valley Association. All of them were opposed to the implementation of plan No. 21.

Mr. JOHNSON of Colorado. That was my understanding. Those are the reasons why I made up my mind to support the Senator's resolution.

Mr. BREWSTER. I think it is of very great concern to these people.

Mr. JOHNSON of Colorado. Does the Senator know whether the opposition is fairly well based?

Mr. BREWSTER. Two members of the Committee on Expenditures in the Executive Departments who have stood up most strongly for this program of reorganization are not here and not prepared to discuss it as a result of the testimony of the Secretary of Commerce and others. Both those Senators, after opposing it, said they did not care to enter into a discussion of this program. I think the Senator from Minnesota may have something to say, but certainly he was not too eager to oppose the plan.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BREWSTER. I yield.

Mr. MAGNUSON. Does the list which the Senator has read, with the exception of the Isbrandtsen Line, contain the name of one ship operator in the United States, one maritime union, or one in-

dustry associated with our vast merchant marine which is opposed to this plan?

Mr. BREWSTER. Not one of those agencies dared to appear in opposition to the plan, because if they did, their very existence would be at stake if the program went through. In my judgment, that is one of the most unfortunate aspects of this whole affair. So far as labor organizations are concerned, if the Senator from Washington had been at the discussions, he would have heard read excerpts from a book written by the present advisor of the Secretary of Commerce, Professor Zeis, who wrote that we should have no American merchant marine, that the whole subsidy program was ridiculous, and we ought to do away with it. He said the argument that we should have a merchant marine in order to train our seamen was equally ridiculous, because the way to train them was in the Navy.

We had a letter from a labor organization, which was not presented by the representative of that organization, Mr. Hoyt Haddock, who is assigned to protect seamen. He did not present it. They sent us the letter, saying that they endorsed this proposal. I wonder whether the Senator from Washington has asked the opinion of Mr. Hoyt Haddock, who has represented this organization and who knows more about the implications and results of this program than any other member, certainly, of a labor organization, as to what he thinks about it and what he thinks the inevitable result would be of the program which is apparently involved in this situation.

Mr. MAGNUSON. Mr. President, if the Senator will not become so excited, I will answer the question. I was here during all this discussion. I had someone from my office present at the committee meetings every day to listen to the testimony.

Mr. BREWSTER. The Senator from Washington was unfortunately detained by a nonpolitical trip. We understand that. I am not criticizing him in the slightest. If he had had an opportunity to read the evidence, I think his eyes would have been opened.

Mr. MAGNUSON. I have just spent the last 2 hours reading it, but the Senator who is a member of the Subcommittee on the Merchant Marine, of which I am the chairman, must realize that we have been holding hearings for six long weeks on maritime matters, on all these subjects. Unfortunately the Senator has not been able to attend many of those hearings. I think he attended 1 or 2 hearings out of a total of 60.

Mr. BREWSTER. Unfortunately I was there when the Senator from Washington was absent.

Mr. MAGNUSON. We are about ready to make a report. We have had about 6 weeks of hearings.

Mr. BREWSTER. I really think the Senator from Washington should speak in his own time. He is using much of my time.

Mr. MAGNUSON. This will take only a minute. In the course of the hearings we took it upon ourselves to request all those associated with the maritime industry and all shipping people to give us their opinion of this reorganization plan. So far as I know, we received no reply which was in opposion to the plan, with maybe one or two exceptions out of hundreds of people who replied. There have been many informal discusions. I have talked to Mr. Haddock about this plan. Some of the people wanted to examine it, but none of them has been opposed to it. So far as I know even before the executive committee there was no testimony on behalf of the maritime people.

Mr. BREWSTER. There was testimony ex parte of the Maritime Commission which expressed very strong opposition to the arrangement prior to the time the plan was issued, after which they felt it was necessary to withhold their objection. Mr. President, I must yield the floor. How much time have I used?

The PRESIDING OFFICER. The Senator from Maine has used 27 minutes. Therefore 18 minutes remain.

Mr. BREWSTER. I now yield the floor to my friend, the Senator from Washington.

Mr. MAGNUSON. Mr. President, I hope we can get a vote on this resolution. However, I wish to take up the points mentioned by the Senator from Maine in favor of his resolution which of course is opposed to the reorganization plan. The Senator from Maine stressed the point that this plan was a departure from the Hoover Commission recommendations; that whereas many of the plans sent to Congress by the President, supported the Hoover Commission recommendations generally, this one and the one affecting the National Labor Relations Board were a departure from the Hoover Commission recommendations.

Mr. President, I do not think that is the case at all. Reorganization Plan No. 21 follows against verbatim the Hoover Commission recommendations regarding the Maritime Commission. The Hoover Commission report to Congress, in a booklet called Regulatory Commissions, in which they deal with the Maritime Commission and others, at page 12, in recommendation No. 9, recommends:

> The Commission recommends that the functions of ship construction and the operation, charter, and sale of ships should be transferred to the Department of Commerce.
>
> The functions of the Maritime Commission relating to rates, conditions of service, and the grant of subsidies should remain with that Commission.

Mr. President, that is exactly what Reorganization Plan No. 21 does. I refer also to a long statement to Congress by the Hoover Commission in the task force report, entitled "Regulatory Commissions, Appendix N," sent to Congress in July 1949. I will not take the time to read it, but they point out, insofar as the Maritime Commission is concerned, what they think is the necessity of doing exactly what plan 21 does. In other words, they separate certain present functions of the Maritime Commission, place those functions under the Department of Commerce, and leave within the so-called Maritime Board, which was in the Department of Commerce, certain other functions which now exist with them.

What is proposed is not a departure from the Hoover Commission report, and, if the Senator from Maine will listen to me, I should like to refer to the statement of Robert L. McCormick, in the hearings on plan 21. Mr. McCormick is the research director for the citizens' committee on the Hoover report, which the Senator mentioned. This is what he says:

> Reorganization Plan No. 21, on the Maritime Commission, was analyzed, in advance of submission to Congress, by the staff of the citizens committee and it was felt to offer a workable solution to an extraordinarily complex administrative matter. It is the opinion of the citizens committee that this plan is a practical, generalized application of the Hoover Commission's recommendations for the reorganization of the Maritime Commission and for the reorientation of the Department of Commerce. The committee strongly supports Reorganization Plan No. 21, and urges that it be approved by this Senate committee. In short, I am appearing in support of the plan.

His testimony goes on at great length, covering their research and analysis of plan 21, which was analyzed before its submission to Congress, showing how it would follow out the recommendations of the Hoover Commission task force report and the Hoover Commission report itself.

Mr. BREWSTER. Mr. President, will the Senator yield to me to read an additional sentence which I think clarifies the quotation? May I read him a further passage from Mr. McCormick's testimony immediately following?

Mr. MAGNUSON. I was about to read the rest of it.

Mr. BREWSTER. If the Senator will read the next paragraph, I think he will find that it very much qualifies what he has just said.

Mr. MAGNUSON. I do not think it qualifies it at all.

Mr. BREWSTER. Will the Senator read it?

Mr. MAGNUSON. I will read it. The officials were before the committee urging that Reorganization Plan 21 be approved, and they strongly urged it. They go further and say:

> The plan is in general conformance with the specific recommendations of the Hoover Commission (recommendation 2, report on Department of Commerce), although, in putting the regulatory as well as the nonregulatory functions in the Commerce Department, the plan diverges from the Commission's program for the following reason.

Mr. BREWSTER. Did he not say this was not the Hoover Commission recommendation?

Mr. MAGNUSON. No. Plan 21 has to be in detail. The Hoover Commission recommendation to the Congress is that we should separate the two functions. It is a general recommendation. Of course, there may be some departures in this matter.

Let me take up the recommendation of the plan. I say that in general it follows the Hoover Commission recommendations, and in general carries out the recommendations of not only the Citizens' Committee but the task force report.

The Senator made the point that this plan should not be approved because we had what he says was an unfortunate experience in 1933, when we transferred the old Shipping Board activities under the Department of Commerce. The situation in 1933 was somewhat different from the situation now. In 1933, when the Department of Commerce had the old Shipping Board functions, we did not have a basic maritime law. Since that time the Maritime Act of 1936 has become the basic national maritime policy and law of the country. It has worked well. It has been testified to, in all the weeks of our hearings, by all those involved in the maritime business, that they were satisfied with its basic approach and general philosophy as related to the Maritime Commission.

Plan No. 21 does not in one iota affect the basic Maritime Act. It does not change one line, it does not change one function, it does not change the general basic approach, which requires operational subsidies, and the other matters with which the Senator from Maine is very familiar.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield to the Senator from Maine.

Mr. BREWSTER. Does not the Senator consider that placing the power to determine routes in the Secretary of Commerce is both a very wide departure from the existing practice and also a most unfortunate one?

Mr. MAGNUSON. Not at all. It does not change any portion of the act. It merely says that in the establishment of routes the Secretary of Commerce shall establish the routes. The basic Maritime Act says to the Maritime Commission that certain essential trade routes shall be established. It does not say to the Maritime Commission where they shall be established, it does not say how they shall be established, it does not say to what extent, or what type of contract they shall enter into with an operator when he gets a route. The basic concept of the act is not touched. All it says is that in the establishment of what we call essential trade routes the Secretary of Commerce, because it is a commercial matter, shall establish the routes.

The Maritime Board within the Department of Commerce continues to have the full say as to the type of contract, the amount of subsidy, the type of subsidy, the chartering or the type of ships which may be used, and all the other regulatory features which go with a contract of a ship operator on an essential trade route.

In that respect there is a change and in that respect there may be some departure from the specific recommendations and discussions in the Hoover Commission Report, but every one who studies the report has repeatedly said in public statements, and the testimony of McCormick of the Citizens' Committee is, that this follows the usual recommendations. Insofar as I can see their recommendations, it does.

The Hoover task force report also refers, in making its general recommendations, to the operation of the Maritime Commission. I would not refer to the present operations, because I do not know what changes in administrative procedure have taken place. We have first to analyze and come to a conclusion as to whether it has been bettered. At the time the task force investigated the Maritime Commission, in an effort to make recommendations as to what should be done with that Commission, in effect they said—though I do not know whether I quote them correctly—it was the most incompetent, most inefficient commission, on the whole, in the United States Government, and they used several other adjectives of the same tenor. That is probably why they came to the quick conclusion that it probably should be reorganized, and that something of the kind proposed should be done.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield to the Senator from Maine.

Mr. BREWSTER. The recommendation of the Hoover Commission—not the task force, which is a very different thing—was for the concentration of the administrative powers in the Chairman, which was carried out under plan 1 and plan 6, which have only been in operation for 7 months. Would not the Senator feel that while this plan is beginning to demonstrate its workability, and while the Senator from Washington is chairman of the subcommittee which has been carrying out this very extensive study, it would be desirable to defer at least the adoption of another reorganization plan, of so extreme a character as the proposed one, which takes away from the Commission the entire power to determine routes, so that in the future the Secretary of Commerce would exercise the power?

Mr. MAGNUSON. The Senator from Washington does not believe that, because the Chairman of the Maritime Commission himself has said repeatedly that he favors this reorganization, and the fact that he received only a small amount of extra authority as Chairman he does not think makes any substantial difference.

This is no departure. The Senator from Maine is worried about the establishment of further trade routes. Most of the essential trade routes in the shipping lines of the world, so far as maritime operations are concerned, have already been established.

Mr. BREWSTER. They can be disestablished.

Mr. MAGNUSON. They are already established. The plan would not change that establishment whatsoever. As a practical matter, if a route is not going to be used, the authority to make that decision as a practical matter is going to lie with the independent maritime board within the Department of Commerce, which has the authority to determine the type of contract and subsidy which shall be given. That is what counts with respect to a trade route. The matter of what is an essential trade route is pretty well established. We know what our essential trade routes are in the world. They have been patterned for many years the world over.

Mr. BREWSTER. The Senator from Washington understands that Professor Zeiss' theory is that there should be no trade routes.

Mr. MAGNUSON. Who is Professor Zeiss?

Mr. BREWSTER. Professor Zeiss is an employee of the Department of Commerce advising the Secretary of Commerce. He had him appear to testify. He referred to him. He is the adviser to the Secretary of Commerce on maritime matters. Professor Zeiss says that there should be no trade routes. The Secretary of Commerce would have to decide between Professor Zeiss and the Commission.

Mr. MAGNUSON. I do not know who Professor Zeiss is. But I know the Secretary of Commerce does not hold to the opinion that we should not have any trade routes. The Senator from Maine has no such opinion. Neither do I have such an opinion. The world maritime trade routes are established, and the Secretary of Commerce has stated repeatedly in a letter to the subcommittee, which I shall place in the RECORD, and to the Committee on Expenditures in the Executive Departments, that the matter of trade routes is no longer an important matter at all, because the trade routes have been established for a long time.

The tenor of the testimony of the witnesses in opposition to the plan, not from the maritime industry at all, but from other industries, railroads, and possibly air lines and others who have a great problem of establishment of routes, is—"Oh, we are afraid that this procedure may spread to some other commissions." I do not know whether it is going to spread to some other commissions, but I know it is going to be good for the maritime industry, and those who are interested in the maritime business of the country have said so. They did not appear in opposition.

The question of trade routes might have been important years ago at the beginning of the establishment of subsidies. It is not of such importance now at all. The important thing is not the shuffling of any important trade routes, because they cannot be shuffled. We know that the North Atlantic route is an essential trade route. Nothing can change that route. Other important trade routes are the essential trade route to the western shores of South America and the essential trade route to the eastern shores of South America. We know that the great North Pacific short route to the Orient is an essential trade route. All those routes are established. No one can change them, and no one is going to change them.

Mr. BREWSTER. Mr. President, will the Senator yield for a question?

Mr. MAGNUSON. I yield.

Mr. BREWSTER. Since the Senator has quoted the Maritime Commission, would the Senator be interested in what I shall read from the letter of February 9, 1950, to Dr. John R. Steelman, Assistant to the President, the White House, Washington, D. C., signed by Philip B. Fleming, Chairman, Grenville Mellen, Vice Chairman, Joseph K. Carson, Com-

missioner, and David J. Coddaire, Commissioner, in which they say:

The Commission—

That is the Maritime Commission—

opposes the grouping of all major promotional activities under unified direction and control. It is our considered judgment that Secretary Sawyer's distinction between regulatory and promotional activities is unrealistic and impracticable.

The letter continues:

The Commission recognizes the need for continuous improvement in the administration of transportation programs. To this end it has been engaged in major revisions of its own structure and operations under Reorganization Plan No. 6 and substantial progress has been made. It is not improvement to go back to that which has been tried and failed. The Merchant Marine Act of 1936 removed the United States Shipping Board Bureau from the Department of Commerce and restored the Maritime Comission as an independent agency.

Would that affect the Senator's view as to the position of the Maritime Commission?

Mr. MAGNUSON. No, that statement does not affect this proposal at all. The Commission was asked for suggestions when its members knew it was proposed to abolish it and move its functions elsewhere, and the commissioners made certain suggestions. There was not a complete agreement between them. Of course, the Maritime Commisison itself would like a few more days of grace. After all, two commissioners are going to lose their jobs, and naturally they want to keep the authority in the Commission.

Mr. DOUGLAS. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. NEELY in the Chair). Does the Senator from Washington yield to the Senator from Illinois?

Mr. MAGNUSON. I yield.

Mr. DOUGLAS. Is it not a fact that last year the Comptroller General of the United States issued a report on the operations of the Maritime Commission, which was extremely critical of the way they conducted their business?

Mr. MAGNUSON. Yes.

Mr. DOUGLAS. And is it not a fact that a subcommittee of the House Committee on Expenditures in the Executive Departments, under the chairmanship of Representative PORTER HARDY issued a very thorough report also condemning the Maritime Commisison for the way in which they have misconducted affairs?

Mr. MAGNUSON. That is correct.

Mr. DOUGLAS. And is it not a fact that the same subcommittee issued in the last few days a further report confirming the charges of maladministration and condemning the majority of the Commission in the most unsparing terms?

Mr. MAGNUSON. That is correct. I will say to the Senator from Illinois that the report was made public only today, when it was submitted to the House. The subcommittee recommends the type of reorganization proposed, and continues its criticism of the Maritime Commission.

Mr. DOUGLAS. Mr. President, will the Senator yield for a further question?

Mr. MAGNUSON. Yes.

Mr. DOUGLAS. Is it not true that the one member of the Commission who was exonerated by the Comptroller General in his report, and by the subcommittee of the House Committee on Expenditures in the Executive Departments, in both its reports, was Commissioner Raymond S. McKeough, who has been in the minority right along trying to prevent excessive subsidies on both construction and operation?

Mr. MAGNUSON. Yes; I think so. I did not read that portion of it, but I understand that is true.

Mr. DOUGLAS. And that therefore there is a clear indication that a reorganization of the Commisison is needed.

Mr. MAGNUSON. I can answer the Senator best by saying that someone asked me about the reorganization plan today. I said I favored it because I thought there should be some type of reorganization of the Maritime Commission. He said he did not know too much about the details, but he said "It could not be any wrose than it is. It has got to be better."

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. BREWSTER. I wonder if the Senator from Illinois realizes that the construction subsidies, which represent the point which has been raised, are still left under the control of the Commission? The route subsidies are the ones that are transferred to the Secretary of Commerce. Before the Senator from Illinois came into the Chamber, I pointed out that the difficulty had been respecting construction, not routes. But the construction is what is left in the Commission. The routes are taken from the Commission. That is not the way to remedy the situation.

Mr. MAGNUSON. I have only a little time left. Of course, I think the Senator from Maine is somewhat unjustly alarmed over the question of trade routes. I can appreciate the importance of the establishment of routes in many other industries such as railroads and airlines. It becomes important to them where the routes are to be established. The air is free, and traffic can go anywhere. Sea routes, maritime routes are not established so much by what people want. They are established on the basis of geography of the area, on the basis of long years of world trade, even as far back as to the days of the Phoenicians. Even though the Secretary of Commerce may have some preconceived special personal idea regarding a trade route, 98 percent of the trade routes that exist today are determined to be essential trade routes to the maritime industry of this country, and they are always going to be such essential trade routes. The Senator from Maine knows we are running into the problem of what we call cross trades and tramp shipping on outside routes, and not the normal trade routes. I hope that may be subject for discussion by the committee next week.

The Senator from Illinois discussed the Maritime Board. It will be an independent board. I have no idea of who will be on it. I do not know whether three members of the present Maritime Commission will be moved to constitute that board, or whether a new board will be established. I know that if this plan is adopted, the result will be to do away with much of the present inefficiency of the Maritime Commission, and to straighten out many of the complex tangles and knots which the citizens committee has said exist in the Maritime Commission. Unless we take this step, Mr. President, I am afraid the American flag will gradually disappear from the seas.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. DOUGLAS. Is the Senator from Washington aware of a report which has been issued today by a subcommittee of the House Committee on Expenditures in the Executive Departments? On page 9 of that report, where the subcommittee deals, not with the subject of construction subsidies, but rather with the operating-differential subsidies, the subcommittee—page 9—quotes from a report of the General Accounting Office, as follows:

That analysis reveals that the calculations supporting the proved rates contain so many errors and omissions as to render the results totally unreliable.

And the subcommittee itself later observes on the same page that—

The admission of lack of the observance of such criteria in the past is indicative of maladministration.

This shows that there has been weakness on the part of the Maritime Commission not only with the construction subsidies but also with the operating subsidies.

Mr. MAGNUSON. Yes.

Of course, I wish to say to the Senator from Illinois that the arguments which have been occurring metween the General Accounting Office and the Maritime Commission have not been in regard to the basic approach of the Maritime Act or in opposition to the theory that we must keep the American merchant marine alive by having operating subsidies as well as construction subsidies, which of course are needed because of the greater costs of construction in United States shipyards. On the contrary, the argument which the General Accounting Office has had has been over the poor administration and inefficiency, and in some cases the argument has been over the legal interpretation of the provisions of the Maritime Act which establish subsidies.

The General Accounting Office has said that it believes in the operating subsidies, but it raises questions as to how such subsidies are being applied to certain shipping lines, and also raises question about certain alleged discrepancies, and so forth.

Mr. DOUGLAS. Mr. President, will the Senator yield for a further question?

Mr. MAGNUSON. I yield.

Mr. DOUGLAS. I should like to ask the Senator from Washington if it is not

true that the subcommittee of the House Committee on Expenditures in the Executive Departments, in its report to which I have referred—the report having been issued only today—indicates that in all probability the operating differentials which were granted were much higher than they should have been, and that the General Accounting Office indicated—page 10—that the operating-differential subsidy, instead of being 45.89, should have been 26.74.

I wonder whether this agrees with the judgment of the Senator from Washington?

Mr. MAGNUSON. I do not know about the specific matter the subcommittee is discussing at that point in the report, but certainly my experience has been that there have been a great many discussions and difficulties and arguments between the General Accounting Office and the Maritime Commission in regard to the subsidies and who is to receive them and the administration of the Maritime Act. That act is a good one, of course. However, the result has been that the American flag has been rapidly disappearing from the seas.

Therefore, Mr. President, this reorganization plan should be adopted and should go into effect, because by means of it we expect to obtain efficiency in the administration of our maritime affairs.

I think the matter is well set forth in the statement by General Fleming, who, of course, under this reorganization plan, if it goes into effect, will be removed from his present position as Chairman of the Maritime Commission. Of course, once the plan goes into effect I do not know whether he will be appointed to the board under the Secretary of Commerce; but certainly the adoption of this plan will result in removing his present authority as Chairman of the Maritime Commission. Nevertheless, he says—as pointed out by the Senator from Maine—that under the plan the new Board will determine the policy, with the exception of the trade routes. In other words, all other policies will be determined independently by the Maritime Board.

In other words, Mr. President, under this reorganization plan the new Maritime Board will administer all the functions under the provisions of the 1936 Maritime Act, other than the so-called housekeeping functions, which will be handled under the Secretary of Commerce.

Other than the housekeeping matters, so-called, all other matters will be administered by the independent Maritime Board, to consist of three members, rather than five. Experience has proved that five members are too many, because the present Maritime Commission, composed of five members, has demonstrated that it is entirely incompetent to handle all the complex details relating to our maritime affairs. I have known of times when there would be so many personal feuds going on between the five members of the Maritime Commission that they could not even have a meeting at which to determine policy. I have known other times when some of the members of the Maritime Commission would be in one place, and other members would be at another place, with the result that it was impossible for the Commission to have a quorum present at its meetings.

I have known of cases which the Maritime Commission has taken not only months but years to decide. Certainly, Mr. President, reasonably prompt and proper decisions on such matters are essential in the complex postwar readjustment of the maritime affairs of the United States.

The reorganization plan now proposed will, when adopted, result in greater efficiency. Even the chairman of the Maritime Commission himself admits that to be so.

Under this plan, the Board will establish the policies. Then the Secretary of Commerce, through his organization, will take care of the housekeeping functions, so to speak, and will do the administrative work. Under this plan, the Secretary of Commerce will use most of the experts now serving in the Maritime Commission, those who know about maritime matters. However, the net result should be a smaller number of employees, as compared with the present employees of the Maritime Commission.

Mr. President, I think this plan is a good one, and I think it is highly desirable that it go into effect. Certainly our maritime affairs could not be handled any worse than they have been handled.

The fact that the administration of certain matters pertaining to our maritime affairs once was removed from the Secretary of Commerce, has no bearing on the present issue at all. That action was taken in 1933, at the time when the Congress did a good job in discrediting what are known as the ocean mail subsidies.

However, no one has attempted to discredit the purposes of the 1936 act, which will not be changed one iota by the adoption of this reorganization plan. After all, that act is a good one. When it is administered properly, we shall have an adequate merchant marine, operated on a most efficient basis, and at the smallest possible cost.

Of course, Mr. President, we shall have to pay subsidies. As the Senator from Illinois has pointed out, there is a great deal of argument about subsidies, not in regard to the basic principle and philosophy behind paying them, but in regard to the amount of the subsidies and contracts. As we know, for a long time the General Accounting Office and the Maritime Commission have disagreed about subsidies, including the ship construction subsidies.

The truth of the matter is that we must have efficient administration of both the operating subsidies and the construction subsidies, so that the administration of those matters will meet with the approval of the people. Otherwise we shall not have an American merchant marine.

In fact, Mr. President, it should be pointed out that today there are only seven ships under construction in the United States. On the contrary, practically all the European shipyards are humming with activity. Similarly, ship repair in United States shipyards is virtually down to the zero level.

Obviously we must have good administration of our maritime affairs, for our people will not be willing to have shipping subsidies paid unless they are satisfied that the subsidies and the activities to which they relate are being properly administered.

Certainly the investigation conducted by the Hoover Commission and the investigations conducted by other agencies show that if our maritime activities are to be carried on in accordance with the real purpose, the good and sound purpose, of the 1936 Maritime Act, and in such a way that we shall have a sound and adequate merchant marine, they must be administered in the most efficient way possible, whereas, of course, the record shows that that has not been the case during the 4 or 5 years of the postwar period.

Mr. President, the Senator from Maine is concerned about the matter of shipping routes, which, under the plan, are to be determined by the Secretary of Commerce. Obviously, that is a change which the plan will make from the system now in existence. However, I think the Senator from Maine is unduly alarmed about that matter, when we consider the advantages to be obtained from good administration of the Maritime Act. I repeat that all of us agree that only by good administration can we expect to have our maritime problems handled properly. It seems to me that the advantages of such good administration far outweigh anything else, and that the question of who will select the shipping routes is one of minor consideration. Even if the power to select the shipping routes is given to the Secretary of Commerce, I cannot conceive that he will do a poorer job than the Maritime Commission itself has been doing. However, the matter is not particularly important, because those routes already have been established.

The important change to be made under this reorganization plan, as it relates to the shipping activities of the United States, is the creation of the independent Board of three members who will award the contracts, decide on the details, and make all the other many determinations, as the Senator from Maine knows, required to be made in the case of shipping contracts.

I know of nothing that becomes more complicated than maritime contracts. I therefore think this is a good plan. I think it is a step in the right direction. I think it is going to make a much healthier condition not only in the maritime industry but in the minds of the people whose faith has been somewhat shaken in the administration of our maritime laws and as to how shipping subsidies should be paid, and as to whom they should be paid.

The Secretary of Commerce, in a letter dated May 9, addressed to the distinguished chairman of the Committee on Expenditures in the Executive Departments, the Senator from Arkansas [Mr. MCCLELLAN], explained why this is dif-

ferent from the 1936 act. I entirely agree with him, and I want to read merely the last paragraph of his letter:

As I see it the present situation is in no way comparable to that prevailing in 1933. In the first place, the discredited Mail Subsidy Act has been replaced by the vastly improved Merchant Marine Act of 1936. Secondly, there is now general agreement on shipping policy which was certainly not the case in 1933. In the third place, the industry itself is now in a far healthier financial position. Finally, the Department itself, as the result of recent developments, is in a better position to assume transportation responsibilities such as those provided by plan No. 21.

As I said before, we have been investigating the maritime problem for almost 6 weeks. We have had hearings constantly, at least 3 or 4 days of every week, going into all phases of the problem. We have had a very efficient staff at work. We hope to make a report on the maritime situation within the next week or 10 days, and to ask the Congress to pass on perhaps 14 or 15 bills involving the maritime industry, and relating to many matters. This plan becomes a part of the over-all approach and the attempt on the part of those of us who are interested in the maritime to straighten out some of these things, not only the administration of the Maritime Commission, but also some of the problems which are inherent in a postwar readjustment, so we may have an adequate merchant marine.

Regardless of what some professor may say, who might be in the Department of Commerce, the American people want a merchant marine. We do not want the plan that we have for the maintenance of an adequate merchant marine to be discredited through poor administration. The American people will then lose faith in this matter, a faith of which they do not now have too much. I refer to faith in subsidies. But subsidies for the American merchant marine are far more justifiable than are subsidies for any other one thing, because they deal directly with low-cost foreign competition. We learned a sad lesson in the recent world war through letting our merchant marine deteriorate because of conditions of this sort, I may say to the Senator from Illinois, notably the discrediting of the administration of maritime affairs and of the policy with respect to ocean-mail subsidies.

Our merchant marine went off the seas between the 1920's and the 1930's, whereas had we had the wise policy of the 1936 act in effect at that time, the situation would have been different. That act did not take effect until 1938 or 1939. Had we had its wise policy in the 1920's and had we paid certain subsidies, and had they been administered properly, as we are here trying to provide, and had they been taken away from the Commission, we would have saved billions of dollars. It cost us almost $59,000,000,000 to rebuild our merchant marine, because we let it go completely to pot in the 1920's.

I think this plan is a step in the right direction. Of course, one may quibble about certain things. But I do not see how it will ever be possible to reorganize the Government if everyone is going to worry about whether every "i" is dotted and every "t" crossed. No one can devise a plan that will be acceptable to everyone. There would still be those who would say, "Oh, this may happen to us," and "We fear that this might affect the ICC, or the Federal Trade Commission, or some other independent commission in the same way." Mr. President, if it does, let us meet that situation when we reach it.

No one has testified against this plan—that is, no one from the shipping interests, no one from the maritime labor interests, no one from the allied maritime industry. The only people who have testified against it have been those who are afraid that if this is done to the Maritime Commission, it may be done to some other commission in which they are employed. Mr. President, if it should be done to them, let us do it to them, but let us meet that problem when we reach it.

Mr. President, we are never going to reorganize the Governmen tif we undertake to raise hobgoblins as to what might happen as a result of the one thing we propose to do. I think we can take those things into consideration, but if we consider the American merchant marine by itself and forget about the other things, I say this is a good plan. In general, it follows the Hoover report. The Hoover report did not specify many of the details, because naturally complex problems are involved.

This recommendation meets with the approval of the Maritime Commission itself. It meets with the approval of most of the people in the shipping industry with whom I have talked, both labor and shipping operators. I know they oppose certain details. They perhaps think this thing should not be done, or that. But this can only result in something better than what we have.

I hope the Senate will not reject this plan. To those who give lip service to the Hoover Commission's report, and who profess to believe in reorganization, I say here is a chance to do something toward a more efficient administration, not only of the subsidies which the taxpayers pay, but a more efficient administration of the basic concepts and basic approaches of the 1936 Maritime Act. We must do something like this. We cannot continue to stumble along as we have in the past 2 years and expect to maintain an adequate merchant marine.

Mr. BREWSTER. Mr. President, I yield 5 minutes to the junior Senator from Washington [Mr. CAIN].

The PRESIDING OFFICER. The junior Senator from Washington is recognized for 5 minutes.

Mr. CAIN. Mr. President, my colleague, the senior Senator from Washington, is of the considered opinion and view that Reorganization Plan No. 21 is a good one. The junior Senator from Washington dissents most vigorously from that point of view. I have just been reading with real interest the reasons for objection to the approval of Reorganization Plan No. 21, as set forth clearly in the report which accompanied Senate Resolution 265. This report has, as of only this morning, come to the desks of Senators. Because of the limitation of time, I should simply like to state the seven main contentions of the opponents of Reorganization Plan No. 21, and to say that I am in support of these reasons of opposition.

I have yet another reason for seriously objecting to Reorganization Plan No. 21. I am not definitely certain that the statement is a correct one, but the statement has recently been made by a number of people interested in the merchant marine throughout this country that Reorganization Plan No. 21, if it is approved by the Congress, will be likely to result in the placing on the beach of additional thousands of American seamen in the years immediately ahead. I think it would be unwise for this body to take action, in the face of that uncertainty, until the uncertainty has been concretely resolved and done away with.

According to the committee report, the testimony in favor of the resolution of disapproval, and in opposition to the plan, developed the following seven points:

1. The plan would set a pattern of policy which is regarded as a highly objectionable innovation of the general transportation policies of the country.

2. The proposal revives in substance an administrative procedure previously tried in the early thirties, but which failed to achieve the national objective of promoting the merchant marine, as a result of which the Merchant Marine Act of 1936 was passed, creating an independent agency for that purpose.

3. If drastic changes are required in the Maritime Commission, and in the act of 1936, such changes should be initiated and accomplished through legislative channels, with adequate opportunity afforded for full hearings, and not by Executive order or by a reorganization plan.

4. It is not possible or practical to separate completely regulatory and promotional functions relating to a method of transportation such as the merchant marine.

5. The effect of submerging the administrative functions of the Maritime Commission in a department of the executive branch, already vested with broad responsibility and varied activities, is to relegate the problems of the merchant marine further down the line and remove those immediately in charge from any direct contact with the Congress or the Executive, except through the proposed Under Secretary and the Secretary, either or both of whom may have no direct knowledge or familiarity with technical maritime affairs.

6. There is no evidence whatsoever that consolidation necessarily means economy in Government operations. Neither is there any indication or assurance that the proposed transfer will result in aggressive, constructive action in the administration of merchant-marine affairs. On the contrary, there is every indication that history will repeat itself and the Government may find itself in the same position as it was in 1933.

7. The members of the Maritime Board, and particularly the Chairman, would be not only politically appointed, but would have to be politically minded. There would be no vestige of independence such as the Congress has sought to provide for the regulatory agencies which it created beginning with the Interstate Commerce Commission.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CAIN. I appreciate the indulgence of the Senator from Maine.

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have placed in the body of the RECORD statements which I prepared on Reorganization Plan No. 21; also a letter addressed to the Honorable Charles Sawyer by myself, and his reply to my letter; also a letter written by the Secretary of Commerce to the chairman of the Committee on Expenditures in Executive Departments.

There being no objection, the matters were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR WARREN G. MAGNUSON ON REORGANIZATION PLAN 21

I have been very much interested in Reorganization Plan 21, in view of the fact that I am chairman of the Subcommittee of the Senate Committee on Interstate and Foreign Commerce which has been conducting an extensive study and investigation of maritime affairs generally, and operations under the Merchant Marine Act, 1936, in particular. In order to clarify some ambiguities with regard to the plan, I requested the views of the Secretary of Commerce by letter of April 5, 1950, and received a reply dated April 14, 1950. I request permission to have copies of these communications inserted in the RECORD at the end of my remarks, together with a copy of a supporting statement on plan 21 which I submitted to the Senate Committee on Executive Expenditures.

I support the plan with the following understanding of its legal significance. I believe it is desirable to set forth for the record this understanding, in order that the record may clear up any ambiguities or misunderstandings as to the legal consequences which will follow the adoption of the plan:

1. The plan does not change either the policy or the substance of the Merchant Marine Act of 1936. The plan merely transfers certain functions under the act from the present Maritime Commission to the new Maritime Board and the Secretary of Commerce. I understand that there is no intent to change the substantive law established by the 1936 act, especially the subsidy provisions. Obviously, a change in substantive law can be accomplished only by legislative, not by executive, action.

2. The 1936 act establishes the policy that the United States shall have a merchant marine sufficient to carry a substantial portion of the foreign commerce of the United States. The term "substantial portion" has been understood and uniformly construed by Congress to mean a 50-percent participation in the foreign trade. This does not necessarily require a 50-percent minimum in all trade routes. In some routes participation will be more and in others less, depending on the circumstances, but the over-all minimum target of 50 percent is firmly established by the 1936 act. All actions of the Board or the Secretary pursuant to the powers transferred under the act must conform to this policy if they are to be valid.

3. It is my understanding from the language of the plan, the President's message of transmittal, and the Secretary's letter of April 14, 1950, that the new Maritime Board will be absolutely free of interference from the Secretary of Commerce in the handling of regulatory matters, and will be subject only to general guidance by the Secretary on policy matters in handling subsidy applications. I understand that the term "guidance" has been used advisedly and that the Board is not legally required to operate within such general policies as the Secretary may promulgate, but is required to give such consideration as may be deemed appropriate to such policies in the administration of its functions. It goes without saying that the Board, in common with other executive agencies and departments, should also seek guidance from the Congress and the appropriate legislative committees.

The general policy guidance does not give the Secretary the power to limit, alter, modify, or review the actions of the Board, and the Board's determinations with respect to grants of subsidy, particularly award of operating subsidies under title VI of the 1936 act, are final and conclusive, subject only to the possibility of judicial review. As the Secretary has stated in his letter, no action taken by the Secretary under the authority delegated to him will "affect the ability of the Board to make final decisions with regard to the making, awarding, and terminating of individual subsidy contracts." At another point in his April 14 letter to me, the Secretary states: "I should like to make it clear that under the plan the Secretary has no authority either to award a subsidy or to direct the action of the Board on a subsidy application."

4. Under the functions transferred to the Secretary is the function of determining trade-route patterns under section 211 (a) and 211 (b) of the 1936 act. The determinations of the Secretary with respect to such trade-route patterns are included among the matters on which the Secretary may wish to establish general policies for the guidance of the Board, but these policies are necessarily general in nature, and are not, I understand, intended to apply to or determine the merits of any specific application for grant of subsidy which may be under consideration by the Board. Such matters are to be finally and conclusively determined by the Board in accordance with the provisions of the 1936 act. While the Board, in making such determinations, may consider the general trade-route patterns established by the Secretary under section 211, the Board is free to make a decision on the merits, based on the record before the Board, and is in no sense controlled by the Secretary's general pattern established by section 211.

Section 211 determinations are purely ex parte. Subsidy determinations are generally based on formal proceedings, with a full record, reflecting current conditions and future prospects, established by sworn testimony. Obviously, Congress did not intend that the trade-route patterns of section 211, which are in the nature of statements of general Government objectives, should control in the handling of specific applications under title VI of the act, which in some aspects at least are quasi-judicial in nature. The last has not been so administered since its enactment.

As I stated at the opening of my remarks, substantive law is not changed by the reorganization plan. The plan merely has the effect of transferring certain of the functions to the Secretary, and, since the section 211 determinations are general in scope, involving to a large extent policy determinations, it is appropriate that these functions have been vested in the Secretary.

5. With respect to the functions transferred to the Secretary, I understand that it is the intent of the plan that these functions should be redelegated by the Secretary to the Administrator, who should function with at least the same degree of autonomy and independence as the other transportation agencies within the Department of Commerce, such as the CAA, with full discretion and responsibility and with a staff sufficient in size and scope fully and completely to implement and discharge these responsibilities.

6. Based on the above understanding, I believe the plan represents an improvement over the present structure. I hope that those charged with the responsibility of administering the functions transferred by the plan will proceed with full vigor to arrest the alarming decline in the American flag merchant marine, with the objective, first, of holding that portion of the foreign trade which is now moving in American bottoms, and second, to recapture sufficient additional traffic to meet the objectives of the act, while at the same time stimulating in every possible way a revival of the coastwise and intercoastal trade of the United States, which has suffered such serious attrition and deterioration.

STATEMENT OF SENATOR WARREN G. MAGNUSON, CHAIRMAN OF THE SUBCOMMITTEE ON MERCHANT MARINE AND MARITIME MATTERS OF THE INTERSTATE AND FOREIGN COMMERCE COMMITTEE, ON REORGANIZATION PLAN NO. 21, MAY 11, 1950

Reorganization Plan No. 21 in its basic concepts conforms to the recommendations of the Hoover Commission. By divorcing the regulatory functions of the Maritime Commission from its executive tasks of managing a huge business—two fundamentally different types of functions requiring different types of organizations—the plan also conforms to the suggestions made in the reports of the President's Advisory Committee on the Merchant Marine and the Senate Committee on Expenditures in Executive Departments (80th Cong.). In 1948, the Senate Committee found:

"It is an anomaly that a regulatory commission should also conduct the executive function of managing a huge business; that executive functions should be carried on by an agency that is not subject to Presidential direction."

Although the plan departs in a small measure from the Hoover Commission recommendations in abolishing the Maritime Commission and creating a new Maritime Board I believe this is not a defect. Considering the strained relations of the Maritime Commission with Congress, the press, and the public, I deemed this to be a salutary provision. At first I was somewhat concerned this change might operate to curtail the independence of the Maritime Board in the exercise of its regulatory functions. However, on further study, I became convinced that the intent and proper interpretation of the plan is to preserve the independent status of the Board in regulatory matters. With respect to the authority of the Board in reaching decisions regarding the making, altering, or terminating of subsidy contracts, I am of the opinion that decisions of the Board will be reached on the basis of the discretion vested in the members and once arrived at will be final. I am attaching hereto copies of an exchange of letters with the Secretary of Commerce.

Some question has been raised relative to the authority granted by the plan to the Secretary of Commerce to determine the trade route pattern. Congress in the Merchant Marine Act, 1936, and other shipping acts has specifically directed that the trade routes essential to serve the commerce of the United States—and that means in all of our trades—shall be established. The Secretary is bound by these legislative mandates. He would be derelict in his duties if he were to disregard the soundly declared policies of Congress. It does not seem to me that he would abandon any of our essential trade routes. This conclusion is confirmed by the Secretary's statements in the letter already referred to.

Committees of Congress concerned with supervision of the work of the Maritime Commission agree that the present organization has not lent itself to the proper administration of our shipping laws. From time to time during the past several years, they have sharply criticized the Maritime Commission. The President's Advisory Committee and the Hoover Commission reached the same conclusions. Other agencies of the Government have repeatedly pointed out the deficiencies of the Maritime Commission.

In the light of the facts, I am satisfied that Plan 21 will materially assist in correcting an organizational and administrative situation

which is materially hampering the development of our merchant marine. I know that most of the shipping interests are with me in voicing concern over the future of our national maritime policy. In my opinion, Plan 21 is a constructive forward step.

Furthermore we should bear in mind that Congress does not abdicate its legislative powers by approving any reorganization plan. We can always pass corrective legislation if some particular aspect of a plan does not work out as anticipated. As chairman of the subcommittee having jurisdiction in this instance, I assure you we will be most vigilant in our scrutiny of the plan in actual operation.

APRIL 5, 1950.

Hon. CHARLES SAWYER,
Secretary of Commerce,
Department of Commerce,
Washington, D. C.

MY DEAR MR. SECRETARY: There is now before Congress for approval Reorganization Plan No. 21 of 1950 abolishing the Maritime Commission and creating a Federal Maritime Board and a Maritime Administration within the Department of Commerce. It transfers the regulatory functions of the Commission to the newly created Board together with certain responsibilities with respect to making, amending, and terminating subsidy contracts.

In the case of regulatory matters, the plan provides the Board "shall be independent of the Secretary of Commerce." Since it is not clear from the language used, particularly when used in its context with other provisions, whether the Board in the regulatory field is to continue to be an independent arm of Congress or whether it is to report to you as Secretary and become a part of the executive branch, we will be pleased if you will give us your interpretation of the prospective legal and factual status of the new Board.

The provisions relating to the subsidy authority of the Board provide that the actions of the Board in making, amending, and terminating subsidy contracts shall be final. Your opinion as to the authority and responsibility of the Board to make decisions on subsidy contracts without prior consultation with, or direction from your department or from other executive agencies is also solicited.

Considering the fact that the general maritime policy as set forth by Congress in the several Maritime Acts is to be under your guidance and administration, the Subcommittee on Merchant Marine and Maritime Matters of the Committee on Interstate and Foreign Commerce is further interested in having your full views relative to a program for the development and protection of our merchant marine. Your comments as to plans for the future would be of great interest to the committee. In this connection an expression of your thinking of the part which waterborne transportation has in the development of a unified and coordinated Federal program for transportation will be most helpful.

In view of the fact that the plan provides for the post of an Under Secretary of Commerce for Transportation, a summary of the respective duties to be assigned to and the spheres of authority to be exercised by yourself, the Under Secretary and the Maritime Administrator will be appreciated. A statement of your contemplated general policy in this regard will be sufficient.

Because of the short time remaining before Congress must act on the proposal, it is requested that your reply be given us on or before April 15, 1950.

Your cooperation will be deeply appreciated.

Sincerely,

WARREN G. MAGNUSON,
Chairman, Subcommittee on Merchant Marine and Maritime Matters.

THE SECRETARY OF COMMERCE,
Washington, D. C., April 14, 1950.

Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Merchant Marine and Maritime Matters, United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: In your letter of April 5, 1950, you asked for my views on certain aspects of the transfer of the functions of the Maritime Commission under Reorganization Plan No. 21 of 1950. This plan establishes a Federal Maritime Board and a Maritime Administration in the Department of Commerce.

The Board would have two principal functions: Regulatory powers relating generally to rates and services, to agreements among carriers, and to trade practices; and powers to award subsidies for the construction and operation of ships. The other functions now lodged in the Maritime Commission would be transferred to the Secretary of Commerce, subject to delegation to the Maritime Administrator, who would also be the Chairman of the Board.

In the exercise of its regulatory powers over rates and services, over agreements between carriers, and over trade practices, the Board would, under section 106 of the plan, be independent of the Secretary of Commerce and would be free to report directly to the Congress. The present independence of decision enjoyed by the Maritime Commission would, therefore, in all respects be continued in the Board, with respect to these quasi-legislative or quasi-judicial regulatory functions.

If, in the exercise of these functions, the Board should wish to avail itself of any of the facilities of the Department, I should of course be glad to see that the Board is accorded full cooperation. However, such cooperation would not, in my opinion, interfere with the independence of the Board in the exercise of its regulatory functions. On the contrary, the decisions of the Board on regulatory matters would be made with complete independence, on the basis of the facts before the Board, subject only to court review. Its consideration of regulatory problems would not be subject to supervision or control by the Department, and its decisions would not be subject to review, or approval, or reverasl by the Secretary or the Department. This method of operation has been found satisfactory in the case of the CAB, and I foresee no difficulty in applying the same principle to the regulatory functions of the Federal Maritime Board.

In the exercise of the powers with respect to the award of subsidies which are delegated to the Board by the plan, the Board is to be guided by the general policies of the Secretary of Commerce, under section 106 of the plan, but its actions with respect to making, amending, and terminating subsidy contracts under section 105 (1) are to be final.

This aspect of the plan appears to me to be both appropriate and practicable. This arrangement facilitates and insures coordinating the subsidy program with the programs and general policies of the executive branch relating to national defense and the national transportation program. At the same time it leaves to the independent judgment of the Board the determination of the individual concerns which are to receive the subsidy contracts and the amounts of the individual subsidies.

I should like to make it clear that under the plan the Secretary has no authority either to award a subsidy or to direct the action of the Board on a subsidy application.

Here, again, I would expect full cooperation between the Board and the Department: The Department will need the views of the Board in establishing general policies for the subsidy program to insure that the general policies will be workable and realistic; the Board may, on occasion, wish the views of the Department with respect to the application of the general policies.

Cooperation and consultation of this sort need not, and I am convinced will not, affect the ability of the Board to make final decisions with respect to making, awarding, and terminating individual subsidy contracts—decisions which will not, under the plan, be subject to review or reversal by the Secretary.

Under the plan, the Federal Maritime Board is to be an agency within the Department of Commerce. This status does not, in my view, give the Secretary or Department any authority over the regulatory functions which the Board is to exercise independently; nor does it give the Secretary or the Department authority to alter or reverse the actions of the Board with respect to those subsidy functions as to which its actions are final.

In your letter you also inquired about my views as to the development and protection of our merchant marine.

I am convinced of the importance of the American merchant marine, and I shall support appropriate measures in the interest of providing a strong, healthy industry. The United States must have a domestic fleet adequate to meet its commercial needs. In the interest of our national security and foreign commerce, we must also have a substantial foreign-trade fleet. Operating shipyards with trained manpower for the construction and maintenance of the merchant fleet are an integral part of a vigorous and up-to-date merchant marine.

At the present time I am not prepared to make any proposals for fundamental revisions of the basic shipping legislation. I propose, if the plan takes effect, to make a thorough review of the present merchant marine program, and if it appears from this review that changes in legislation would make the program more effective, I would submit for congressional consideration recommendations for appropriate changes in the present laws.

Until careful studies have been made it would not be possible to indicate the precise place which promotion of the merchant marine should have in an over-all Federal program for transportation. As I indicated in my report to the President, I am strongly in favor of the national transportation policy set forth in the Transportation Act of 1940, which provides for the recognition and preservation of the inherent advantage of each form of transportation and the promotion of safe, adequate, economical, and efficient service as well as the fostering of sound economic conditions in the field of transportation. I am convinced that adherence to this policy in domestic transportation will result in a flourishing domestic fleet available for use by the commerce of the United States. I also recognize that, because of our higher costs, subsidies are necessary for merchant shipping operating in international trade, if we are to remain a major shipping power and if our merchant fleet is to make an adequate contribution to national defense.

Your letter also inquired as to the general policy contemplated as regards the respective spheres of authority of the proposed Maritime Administrator, the Under Secretary for Transportation, and myself.

The Maritime Administrator would be responsible for the operations of his agency and would be vested with suitable authority to fulfill that responsibility. While the Department requires adherence to certain administrative standards and practices in the interests of economy and progressive management, it is my policy to give operating bureaus wide operating latitude. This policy would apply to the Maritime Administration, in conformance with the administrative pattern of the Department prevailing with respect to the Bureau of Public Roads, Civil Aeronautics Administration, and other major agencies.

As in the case of the other bureau heads, the Maritime Administrator would be ultimately responsible to me as Secretary. The proposed Under Secretary for Transportation

would act as my deputy with respect to the programs and activities embraced within the proposed Maritime Administration, Bureau of Public Roads, Civil Aeronautics Administration, and the Inland Waterways Corporation. It would be the responsibility of the Under Secretary for Transportation to exercise general policy supervision on my behalf over all transportation activities in the Department and to assure program consistency among these several transportation agencies. He would play a major role in developing a coherent over-all transportation policy and in assuring the effective administration of those transportation activities lodged in the Department.

If there is any further information which you would like me to supply, please let me know.

Sincerely yours,

CHARLES SAWYER,
Secretary of Commerce.

MAY 9, 1950.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Expenditures in the Executive Departments, United States Senate, Washington, D. C.

DEAR SENATOR MCCLELLAN: During the course of my testimony before your committee yesterday, May 8, in behalf of the President's Reorganization Plan Number 21, you suggested that I might wish to address some additional information to the committee covering that period in which the Government's maritime functions were located in the Department of Commerce.

In my prepared statement under the general heading "Organizational and statutory background" on page 2, I set forth briefly what occurred during the period from 1933 to 1936. The pertinent part reads as follows, with the especially significant parts underlined:

"By 1933 Congress had become seriously dissatisfied with the maritime situation generally, with the administration of the Government's maritime activities, and particularly with the mail-contract payments system. A Senate investigation of the mail-contract form of subsidy was conducted during the last part of 1933 and the first part of 1934. Its report, issued in May 1935, and several other investigatorial reports about the same time criticized severely the Government's maritime policies and practices prevailing in the early thirties. In 1933, the President issued Executive Order 6166 which, among other things, abolished the Board and transferred all its functions to the Department of Commerce. This transfer was made necessary by the chaotic situation wherein an inherently poor act was being administered poorly. The transfer was not designed as a final solution, but rather an a temporary expedient until permanent legislation could be passed. It was hoped some economies also might result. The new organization in the Department was known as the United States Shipping Board Bureau. The Fleet Corporation was also transferred to the Department. The 3-year life of the Shipping Board Bureau coincides with the period of congressional investigations and active legislative consideration. The reports of these investigations and of the standing committees which formulated the Merchant Marine Act of 1936 directed their criticisms at the defects in the existing legislation and at the administrative deficiencies of the agencies which preceded the Shipping Board Bureau."

The period prior to passage of the Merchant Marine Act of 1936 was a low period for the merchant marine industry and perhaps for the Government's maritime programs. This fact, however, was primarily the result of the discrediting of the mail-contract subsidy system of the act of 1928. As indicated above, the administration of this act by the independent United States Shipping Board had reached such a chaotic status by 1933 that the President found it necessary to make some kind of immediate administrative change pending Congressional action. As I understand it, the Department of Commerce suddenly found itself the unwilling recipient of an already seriously aggravated administrative problem. In addition, the Department was confronted with many problems over which it had no control—for example, the outstanding long-term mail subsidy contracts. In view of this situation, plus the sharply critical investigations in progress and the active Congressional debating of the Government's basic maritime policies, it was inevitable that the industry and the Government's program should remain in a state of flux. I understand that despite this most unsatisfactory general situation, the Shipping Board Bureau within the Department of Commerce cooperated closely with Congress and succeeded in ameliorating a number of the problems it inherited. Particularly I understand the Bureau made a good record in collecting payments from the numerous firms that were then in default in their obligations to the Government.

I am informed that in the hearings of the Black Committee and in its report issued in May 1935, no criticisms were made of the Shipping Board Bureau or its administration. Similarly, I understand, in the hearings and reports of the standing committees of Congress which formulated the Merchant Marine Act of 1936, no criticisms were leveled at the Shipping Board Bureau. The Merchant Marine Act of 1936 primarily represented a change in the fundamental subsidy policy of the Government rather than a reflection on the administrative competence of the Shipping Board Bureau. It seems entirely clear that this act, or one very much like it, would have been passed whether or not the Government's maritime functions, including regulatory activities, had been placed in the Department of Commerce.

As I see it the present situation is in no way comparable to that prevailing in 1933. In the first place, the discredited mail subsidy act has been replaced by the vastly improved Merchant Marine Act of 1936. Secondly, there is now general agreement on shipping policy which was certainly not the case in 1933. In the third place, the industry itself is now in a far healthier financial position. Finally, the Department itself, as the result of recent developments, in is a better position to assume transportation responsibilities such as those provided by plan No. 21.

Sincerely yours,

CHARLES SAWYER,
Secretary of Commerce.

Mr. HUMPHREY. Mr. President, the Senator from Minnesota would like to know how much time remains.

The PRESIDING OFFICER. Four minutes.

Mr. HUMPHREY. Mr. President, in the remaining 4 minutes it is only necessary to make a very brief summary of the case presented so concisely and convincingly by the Senator from Washington [Mr. MAGNUSON]. The Senator pointed out that on three different occasions the Maritime Commission has been subject to what might be called intensive and exhaustive investigation. The most recent investigation of the activities of that commission was cited by the Senator from Illinois [Mr. DOUGLAS].

I think it is very important that the Members of the Senate should be aware of some of the general language in connection with the recent investigation. For example, in the report of the House subcommittee of the Committee on Expenditures in the Executive Departments, in reference to the operations of the Maritime Commission, we find on page 11 the following statement:

> The record of hearings on these sales points up sharply administrative delays in making determinations, poor record keeping, delays in billing and collecting.

That points up part of the general administrative confusion.

On page 12 of the same report, in very devastating language, Mr. President, the committee has this to say:

> No satisfactory explanation for long delays is apparent in the record of the hearings, and your subcommittee considers this subject to be another example of the general administrative inadequacy pervading the Commission.

Because of the limitation of time I merely cite the report from the House Committee on Expenditures in the Executive Departments, and say that it is filled with the inadequacies and the weaknesses of the administrative procedures and practices of the Maritime Commission.

It is important to note that the witnesses who testified before the Senate Committee on Expenditures in the Executive Departments, of which I am a member, represented those interests which were involved in the shipping industry, and, on the other hand, they represented interests primarily concerned with sound public administration. Mr. Robert McCormick, representing the Citizens Committee on the Hoover Report, testified that Reorganization Plan No. 21 was analyzed by the committee and it was believed the plan offered a workable solution to the complex administrative situation. It should also be noted that insofar as the separation of functions of the Commission, as provided under the plan, is concerned, it keeps within the specific requirements of the recommendations of the Hoover Commission.

There is plenty of evidence on hand to show that there is hardly an agency in the Government that has failed in its responsibilities quite so much as has the Maritime Commission. I believe its failure is not due to the men serving on the Commission; I believe they want to do a good job; but the sad fact is that because of the administrative organization of the agency it is utterly impossible to do a good job.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. DOUGLAS. Is it not true that, while the reports of the House Committee on Expenditures in the Government Departments have been unsparing in their criticism of a great many members of the Commission, they have also specifically pointed out that Commissioner McKeough has consistently fought to defend the public interest and to keep the subsidies within bounds?

Mr. HUMPHREY. I think the report is very clear, insofar as Commissioner McKeough is concerned, that he is working in behalf of the public interest.

One of the real reasons why there is a fight against the plan is because of the language of the plan. It provides that the subsidy policies shall be determined by the Secretary of Commerce. It is exactly for this reason that some of the shipping interests, joined by their railroad brethren, have determined they are going to fight the plan because the Secretary of Commerce has the right to set the general policy of subsidies. That means it will be a matter of public notice. The American people will, at long last, find out where the money is going and what is the subsidy policy. Up to this time it has been sort of a Mexican-bean game. At just about the time we find out where the subsidy will go, they shift the beans. The general policy of subsidization will be made a matter of public record.

As a member of the Committee on Expenditures in the Government Departments I took note of the fact that there seemed to be a good deal of cooperation on the part of the shipping interests and the railroads in fighting plan No. 7, which pertains to the Interstate Commerce Commission. Ordinarily the railroads of the country and the steamship lines are at each other's throats. There is a constant fight between them. But as to plan 21 I notice a love feast. Whenever there is a plan before us which is going to work in the public interest, we find every special interest in America lining up against it.

Mr. President, I hope the resolution will be rejected and that the plan as submitted by the President will be accepted in the public interest.

Mr. BREWSTER. Mr. President, I should like to have the attention of the Senator from Illinois. I should like to instruct him——

Mr. DOUGLAS. Mr. President, may I say I am always delighted to be instructed by the distinguished Senator from Maine.

Mr. BREWSTER. I have listened to the Senator's able remarks. I recall that in San Francisco there is a little cemetery in which the most handsome monument erected is to the memory of a man who was lynched by mistake. The lynchers erected a monument expressing their great regret, although there was nothing they could do about it. I am sure the Senator from Illinois is not in sympathy with a procedure of that character, although much of his discussion and that of the Senator from Washington [Mr. MAGNUSON] lends itself to such a construction.

In the first place, the Senator from Illinois lauds the services of Commissioner McKeough. I share in that confidence and support, and I should like to point out to the Senator that Commissioner McKeough was not satisfied with the letter sent by the other members of the Commission supporting this plan. He wrote a report of, I believe, 52 pages, pointing out the utter impossibility of making any such program work and stating how firmly he was opposed to it. So far as Commissioner McKeough is concerned, I gather the Senator from Illinois would have respect for his opinion, and would desire that his policies should continue.

The other curious thing is that the Chairman of the Commission, within the past 7 months has been given the administrative responsibility recommended by the Hoover Commission. In order to bring about a better functioning of the Board, in accordance with several plans that have been adavnced, he has been given those powers and he has had them for about 7 months. It is our hope that in that period great progress has been made. I wish to point out further to the Senator from Illinois and the Senator from Washington that all the criticisms are concerned with the report of the General Accounting Office on the fiscal years 1948 and 1949, before General Fleming had even taken office as Chairman and before he was associated with the powers which he is permitted to exercise. Therefore, to go forward and condemn the Commission as now constituted, with the powers now exercised by the Chairman, with a possibility of achieving the efficiency which is desired, is to hang the wrong man.

Mr. DOUGLAS. May I say to my good friend from Maine, that while I did not intend to single out General Fleming for criticism, the report of the House subcommittee indicates that he also has been at fault.

Thus, after quoting the cross-examination of General Fleming by Mr. Peyton, the committee said, on page 28:

> These remarks on the part of General Fleming, when related to the Mellen memorandum and to the statute, show either a complete lack of understanding of the subject matter or a desire to meaninglessly quibble.

There are other similar passages. For instance, on page 26 there is also a statement by the subcommittee which reads as follows:

> It should be noted that Chairman Fleming here takes the position that all actions of the Commission on the six vessels in question are completely justified and indicates no review action necessary. The calculations involved were, to a large extent, under the supervision of the same person who supervised the admittedly unsupported results arrived at in connection with betterment and operational subsidies.

There are also other criticisms of the work of the Chairman, General Fleming, on pages 26, 27, 29, 30, and 31 which I should like to read.

Mr. BREWSTER. I am sorry, but I cannot yield further to the Senator from Illinois.

Mr. DOUGLAS. I am sorry, but since the Senator from Maine wished to admonish and correct the Senator from Illinois, I think it is proper that the Senator from Illinois should admonish and correct the Senator from Maine.

Mr. BREWSTER. For the further enlightenment of the Senator from Illinois, I should like to quote from the testimony before the Committee on Expenditures in the Executive Departments, at page 47, what the Senator from Connecticut [Mr. BENTON] had to say. The Senator from Connecticut has been one of the most wholehearted supporters that reorganization has had. He is speaking to the Secretary of Commerce, who came before us with almost a complete ignorance of the program, and to whom we are being asked to entrust this responsibility. The Senator from Connecticut said:

> It seems to me that your oral testimony runs counter to the objective of the Hoover Commission on its many recommendations in many areas of the Government, where we are trying to fix responsibility on a responsible executive where we can see it.

In other words, the Senator from Connecticut pointed out that Secretary Sawyer has even contradicted himself in his testimony. That accounts for the fact that neither the Senator from Minnesota [Mr. HUMPHREY] nor the Senator from Connecticut [Mr. BENTON] cared to indulge in a discussion of this matter. They were impressed with the apparent confusion in the situation and also by the fact that the plan clearly went beyond the intent which was contemplated by the Hoover Commission.

Mr. BENTON. Mr. President, will the Senator yield for a question?

Mr. BREWSTER. I yield.

Mr. BENTON. Does the Senator from Maine know that the Secretary of Commerce later submitted a letter to the Committee on Expenditures in the Executive Departments clarifying this point and bringing clearly into line his attitude with his testimony and the testimony of the Bureau of the Budget?

Mr. BREWSTER. Yes, I am quite familiar with that. My point was simply that even the Solomon to whom the functions would be transferred found it necessary to have a letter written to clear up the confusion in his own mind. So we are not making progress by transferring from one commission to another.

What I think we should have clearly in mind is that under plan 6 last year we did carry out much of the reorganization contemplated by the Hoover Commission with relation to the Maritime Commission. We gave to the chairman the administrative responsibility which it was believed was desirable, and that has been in effect for some 7 months. I believe it will result in great improvement. The Committee on Interstate and Foreign Commerce and the subcommittee headed by the Senator from Washington [Mr. MAGNUSON] have been carrying on an extensive study for the past 6 months of all ramifications of maritime policy. We are about ready to report, and we are about ready to make recommendations regarding legislation. Certainly it would seem to me that before we made another radical change which goes clearly beyond the recommendations of the Hoover Commission, as stipulated in their own report, it would be well for us to await the recommendations of the Interstate and Foreign Commerce Committee which has been making exhaustive studies for 12 months at a cost of more than $50,000, and ascertain what we can get for our money before we make another radical move of this character, which will inevitably result in adding further confusion to the situation.

There are a great number of applications, action on which would be in doubt. It is provided in the law that in order for anyone to be allowed more than 33⅓ percent subsidy four members of the Commission must vote affirmatively. If this plan goes through there will not be four members. I do not know what is

contemplated by those who drafted the act with respect to that.

Mr. MAGNUSON. I have a long letter from the Director of the Budget in which those questions are clarified.

Mr. BREWSTER. I would be very glad to have the Senator put the letter into the RECORD.

Mr. MAGNUSON. He suggested it should be two members.

Mr. BREWSTER. I am glad to see efforts being made to reconcile it. I do not believe, however, there is time to have it clarified now.

Mr. MAGNUSON. The chairman of the committee would like to put the letter into the RECORD.

Mr. BREWSTER. I shall yield to him for that purpose.

Mr. McCLELLAN. Mr. President, I ask unanimous consent to have inserted in the body of the RECORD at this point a letter from the Director of the Budget addressed to me, dated May 19, 1950, pertaining to Reorganization Plan No. 21.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 19, 1950.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Expenditures in the Executive Departments, United States Senate, Washington, D. C.

MY DEAR SENATOR MCCLELLAN: I wish to acknowledge your letter of May 17 presenting three questions concerning Reorganization Plan No. 21 of 1950 on which you desire additional information. I am answering these questions in the order in which you presented them.

"1. Under the Merchant Marine Act, certain actions by the Commission, such as award of construction subsidies exceeding 33⅓ percent, require four votes. Since the new board will have only three votes, what will be the voting requirements in such cases under the plan?"

This problem is covered by section 102 (d) of the plan, which provides: "Any two of the members in office shall constitute a quorum for the transaction of the business of the Board, and the affirmative votes of any two members of the Board shall be sufficient for the disposition of any matter which may come before the Board." The only alternative to this provision would be to require a unanimous vote of the three members of the Federal Maritime Board in the cases where the Merchant Marine Act, 1936, now calls for the affirmative votes of four of the five members of the Maritime Commission. The requirement of a unanimous vote, however, would not be practicable since it might block action and seriously interfere with the effective prosecution of the maritime programs.

"2. Who is to control the submission of requests for appropriations from Congress and sponsorship thereof on matters under the jurisdiction of the Board, such as the amount to be requested for operating and construction subsidies?"

The budget of the Board will form a part of the budget of the Department of Commerce. Insofar as the regulatory functions of the Board are concerned, however, the Department will have no authority to make any changes in the Board's estimates because section 106 of the plan specifically makes the Board independent with respect to such functions. In this connection, I might point out that under a similar provision in plan IV of 1940, on the relation of the Civil Aeronautics Board to the Department of Commerce, the Department has never attempted to revise the estimates of the Board for functions with respect to which the plan guarantees the independence of the Board. As to other functions of the Maritime Board, the estimates will be subject to review by the secretary under the Budget and Accounting Act. I should point out that the ultimate control over the budget submitted to the Congress for maritime subsidies will reside in the President as it now does.

"3. The merchant-marine policy as fixed by Congress in its statement of policy in the Merchant Marine Act of 1936 contemplates that a 'substantial' portion of all foreign trade will be carried in American-flag bottoms. This is usually interpreted to mean 50 percent over-all target—with individual routes varying above or below, depending upon conditions. In estabishing trade-route patterns, is the Secretary required to observe the 50-percent objective or may he establish a trade-route pattern which contemplates a different objective?"

The Secretary of Commerce will be governed by the policies set forth by the Merchant Marine Act of 1936 just as fully as the Maritime Commission is. The first section of this act declares:

"It is necessary for the national defense and development of its foreign and domestic commerce that the United States shall have a merchant marine (a) sufficient to carry its domestic water-borne commerce and a substantial portion of the water-borne export and import foreign commerce of the United States and to provide shipping service on all routes essential for maintaining the flow of such domestic and foreign water-borne commerce at all times, (b) capable of serving as a naval and military auxiliary in time of war or national emergency, (c) owned and operated under the United States flag by citizens of the United States, insofar as may be practicable, and (d) composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizens personnel. It is declared to be the policy of the United States to foster the development and encourage the maintenance of such a merchant marine." (June 29, 1936, ch. 858, title 1, sec. 101, 49 Stat. 1985).

The Secretary of Commerce has definitely stated in a letter to you that he believes in these policies and will give them his full support. In a recent letter to Senator MAGNUSON, he further said:

"I am convinced of the importance of the American merchant marine, and I shall support appropriate measures in the interest of providing a strong, healthy industry. The United States must have a domestic fleet adequate to meet its commercial needs. In the interest of our national security and foreign commerce, we must also have a substantial foreign trade fleet. Operating shipyards with trained manpower for the construction and maintenance of the merchant fleet are an integral part of a vigorous and up-to-date merchant marine."

While the Merchant Marine Act contemplates that a substantial portion of our foreign trade be carried in American vessels as you state, it does not specifically provide that 50 percent of the trade be so carried. At some times this ratio has been exceeded and at some others it has not been possible to attain such a percentage. The exact percentage of our foreign commerce that can be carried in American bottoms depends on a variety of factors, many of which are beyond the control of the Government. To the extent that this percentage can be determined by the Government, the most basic factors are the type of subsidy system established by the Congress and the amounts appropriated by it for subsidy purposes. Within these limitations, I feel certain that the Secretary of Commerce will do his utmost to achieve the development of a strong American merchant marine.

Sincerely,

FRANK PACE, JR.,
Director.

Mr. BREWSTER. This plan goes further than any other plan which has been presented. We have agreed to the original plan No. 6, which embraces much of the proposal of the Hoover Commission. We are trying that out now. Why should we be required or expected to go beyond this to a plan which will absolutely change the entire character and function of the Maritime Commission and put it in the hands of the Department of Commerce, where it was once before and we found it would not work? That is incomprehensible to me. The Commission has had difficulties, as have other commissions, but as an independent agency of the Government functioning under the reorganization plan proposed by the Hoover Commission, it is entitled to a fairer and further trial than it has yet received. Therefore, I earnestly hope the Senate will adopt the resolution in order to postpone the functioning of the contemplated Reorganization Plan No. 21.

The PRESIDING OFFICER. All time for debate has expired. The question is on agreeing to Senate Resolution 265, to disapprove Reorganization Plan No. 21.

Mr. HUMPHREY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Hill	Magnuson
Anderson	Hoey	Malone
Benton	Holland	Martin
Brewster	Humphrey	Maybank
Bricker	Hunt	Neely
Butler	Ives	O'Conor
Byrd	Jenner	O'Mahoney
Cain	Johnson, Colo.	Robertson
Capehart	Johnson, Tex.	Russell
Chapman	Johnston, S. C.	Schoeppel
Cordon	Kefauver	Smith, Maine
Darby	Kem	Smith, N. J.
Donnell	Kilgore	Sparkman
Douglas	Knowland	Stennis
Dworshak	Leahy	Taft
Eastland	Lehman	Thomas, Utah
Ecton	Lodge	Tobey
Ellender	Long	Tydings
Ferguson	Lucas	Watkins
Fulbright	McCarran	Wherry
George	McCarthy	Wiley
Gillette	McClellan	Williams
Green	McFarland	Young
Hayden	McKellar	
Hendrickson	McMahon	

The PRESIDING OFFICER. A quorum is present.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MYERS. I announce that the Senator from New Mexico [Mr. CHAVEZ] and the Senator from Oklahoma [Mr. THOMAS] are absent by leave of the Senate.

The Senator from California [Mr. DOWNEY] and the Senator from North Carolina [Mr. GRAHAM] are absent because of illness.

The Senator from Delaware [Mr. FREAR] is absent by leave of the Senate on official business.

The Senator from Montana [Mr. MURRAY] is absent because of a death in his family.

The Senator from Pennsylvania [Mr. MYERS] and the Senator from Florida [Mr. PEPPER] are absent on public business.

The Senator from Texas [Mr. CONNALLY] and the Senator from Idaho [Mr. TAYLOR] are detained on official business.

The Senator from Kentucky [Mr. WITHERS] is necessarily absent.

I announce further that if present and voting, the Senator from Texas [Mr. CONNALLY], the Senator from Pennsylvania [Mr. MYERS], and the Senator from Idaho [Mr. TAYLOR] would vote "nay."

Mr. WHERRY. I announce that the Senator from Iowa [Mr. HICKENLOOPER], the Senator from North Dakota [Mr. LANGER], the Senator from Colorado [Mr. MILLIKIN], the Senator from Oregon [Mr. MORSE], and the Senator from Michigan [Mr. VANDENBERG] are absent by leave of the Senate.

The Senator from South Dakota [Mr. MUNDT] is absent on official business.

The Senator from Massachusetts [Mr. SALTONSTALL] and the Senator from Minnesota [Mr. THYE] are necessarily absent.

The Senator from New Hampshire [Mr. BRIDGES], the Senator from Vermont [Mr. FLANDERS], and the Senator from South Dakota [Mr. GURNEY] are detained on official business. If present and voting, the Senator from Vermont [Mr. FLANDERS] would vote "nay."

The Senator from Massachusetts [Mr. SALTONSTALL] is paired with the Senator from Minnesota [Mr. THYE]. If present and voting the Senator from Massachusetts would vote "nay," and the Senator from Minnesota would vote "yea."

The yeas and nays resulted—yeas 14, nays 59, as follows:

YEAS—14

Brewster	Eastland	Malone
Cain	Ecton	Stennis
Capehart	Johnson, Colo.	Wherry
Cordon	Long	Wiley
Donnell	McCarran	

NAYS—59

Aiken	Holland	Magnuson
Anderson	Humphrey	Martin
Benton	Hunt	Maybank
Bricker	Ives	Neely
Butler	Jenner	O'Conor
Byrd	Johnson, Tex.	O'Mahoney
Chapman	Johnston, S. C.	Robertson
Darby	Kefauver	Russell
Douglas	Kem	Schoeppel
Dworshak	Kilgore	Smith, Maine
Ellender	Knowland	Smith, N. J.
Ferguson	Leahy	Sparkman
Fulbright	Lehman	Taft
George	Lodge	Thomas, Utah
Gillette	Lucas	Tobey
Green	McCarthy	Tydings
Hayden	McClellan	Watkins
Hendrickson	McFarland	Williams
Hill	McKellar	Young
Hoey	McMahon	

NOT VOTING—23

Bridges	Hickenlooper	Pepper
Chavez	Kerr	Saltonstall
Connally	Langer	Taylor
Downey	Millikin	Thomas, Okla.
Flanders	Morse	Thye
Frear	Mundt	Vandenberg
Graham	Murray	Withers
Gurney	Myers	

The PRESIDING OFFICER. On this vote the yeas are 14, the nays 59. A majority of the authorized membership of the Senate not having voted in the affirmative, the resolution (S. Res. 265) is not agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Swanson, one of its reading clerks, announced that the House had passed a joint resolution (H. J. Res. 476) making temporary appropriations for the fiscal year 1950, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H. J. Res. 476) making temporary appropriations for the fiscal year 1950, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

RECONSTRUCTION FINANCE CORPORATION

Mr. FULBRIGHT. Mr. President, Senate Resolution 219, adopted February 8, 1950, ordered the Banking and Currency Committee or its subcommittee conducting a study of the operations of the Reconstruction Finance Corporation to report its findings and recommendations for legislation to the Senate at the earliest practicable date, but not later than June 1, 1950.

After commencing its study of the Reconstruction Finance Corporation, it became apparent to the committee that the thorough study of the operation of the Reconstruction Finance Corporation which was ordered to be undertaken could not be completed by June 1, 1950. The committee is of the opinion that the study of the Reconstruction Finance Corporation is very important. It involves a matter of basic national policy, namely, the extent to which the Government ought to engage in the business of lending to private enterprise during a peacetime, nonemergency period. A superficial study of this important matter of public policy would not be helpful to the Congress.

The committee has instructed me to request an extension of the time within which the committee may complete its study and file its report. Accordingly, I submit and send to the desk at this time a resolution to accomplish this purpose, and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The resolution (S. Res. 279) was read by the Chief Clerk, as follows:

Resolved, That the authority of the Committee on Banking and Currency, or any duly authorized subcommittee thereof, under Senate Resolution 219, Eighty-first Congress, agreed to on February 8, 1950 (providing for a study of the operations of the Reconstruction Finance Corporation and its subsidiaries), is hereby continued until July 15, 1950.

The PRESIDING OFFICER. Is there objection to the request for the immediate consideration of the resolution?

There being no objection, the resolution (S. Res. 279) was considered and agreed to.

Mr. FULBRIGHT. Mr. President, for the purpose of expediting its study and availing itself of the services of legal counsel and assistants, the committee has also instructed me to introduce a joint resolution exempting counsel and assistants of the subcommittee from the operation of certain Federal statutes. This resolution is identical in terms and effect with joint resolutions previously passed by the Congress with respect to counsel for other committees. Accordingly, I introduce and send to the desk at this time a joint resolution to accomplish this purpose, and ask unanimous consent for its immediate consideration.

The joint resolution (S. J. Res. 183) to suspend the application of certain Federal laws with respect to attorneys and assistants employed by the Subcommittee on Reconstruction Finance Corporation of the Banking and Currency Committee of the Senate in connection with the study ordered by Senate Resolution 219, Eighty-first Congress, second session, was read the first time by its title, and the second time at length, as follows:

Resolved, etc., That service or employment of any person as an attorney, or assistant, on a temporary basis to assist the Subcommittee on Reconstruction Finance Corporation of the Banking and Currency Committee of the Senate in the study ordered by Senate Resolution 219, agreed to on February 8, 1950, shall not be considered as service or employment bringing such person within the provisions of sections 281, 283, or 284 of title 18 of the United States Code, or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States.

The PRESIDING OFFICER. Is there objection to the request for the present consideration of the joint resolution?

Mr. DONNELL. Mr. President, reserving the right to object, let me say that it has been difficult for me to hear the Senator's explanation. Will the Senator please repeat it?

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Those who desire to converse will please retire at once to the cloakrooms.

Mr. DONNELL. I thank the Chair, in view of the importance of this matter.

Mr. FULBRIGHT. Mr. President, let me say to the Senator from Missouri that the joint resolution would exempt the employees of the subcommittee from the operations of section 281, 283, or 284 of title 18 of the United States Code. Those are provisions of law which assess penalties against Government employees who have any dealings relating to matters in which the Government is directly or indirectly interested. The same provision of law also applies to Members of Congress, preventing Members of Congress from accepting fees or other payments in connection with cases against the Government.

I understand that in the case of temporary employment of counsel by subcommittees such as ours and the Tydings subcommittee of the Foreign Relations Committee and the Kefauver special

committee, it is customary to exempt the attorneys employed on a temporary basis from the operation of those laws. Most of these employees come from legal offices which, in the routine conduct of their business, may be handling claims against the Government. Of course, it would be purely by chance that any of them would relate to the business before the subcommittee.

I am told that the exemption we now request to be made is a routine and customary one, and that one was made a few days ago in the case of the subcommittee of the Foreign Relations Committee, known as the Tydings committee.

Mr. DONNELL. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered, ordered to be engrossed for a third reading, read the third time, and passed.

TEXMASS PETROLEUM CO. LOAN—INTERIM REPORT OF A COMMITTEE (S. REPT. NO. 1689)

Mr. FULBRIGHT. Mr. President, there is one other item which I should like to present at this time.

I shall shortly send to the desk the report of the Subcommittee on Reconstruction Finance Corporation of the Senate Banking and Currency Committee on the loan to the Texmass Petroleum Co.

Before filing the report, however, I desire to make a few brief comments which may be helpful to the Senators in their consideration of this report, which is an interim report.

The subcommittee has agreed that the proper way to find out about the operations of the Reconstruction Finance Corporation is to make a detailed study of specific loans. In this way, we can observe how the Reconstruction Finance Corporation is interpreting and applying the broad lending powers, and the limitations thereon, contained in the Reconstruction Finance Corporation Act. Broad generalities, by themselves, can be discussed endlessly without arriving at any clear agreement as to their meaning. But when general principles are applied to specific facts in an actual case, then their intent becomes clearer.

The report to be submitted today deals with the loan to the Texmass Petroleum Co. in the amount of $15,100,000, of which the Reconstruction Finance Corporation will supply $10,100,000.

The subcommittee's staff conducted a preliminary study of the facts and record with respect to the Texmass Petroleum Co. loan.

The facts with respect to the Texmass Petroleum Co. loan were called to the attention of the Comptroller General of the United States, since the preliminary study of the staff indicated the possibility that the granting of this loan might be without authority of law. After a study of the facts, the Comptroller General in a written opinion advised the subcommittee that unless additional facts would explain and refute the evidence before him, he would undoubtedly report the Texmass loan as being one without authority of law. This report would be made in his regular audit report under the Government Corporation Control Act, which requires him to call to the attention of the Congress any transaction observed in the course of his audit which in the Comptroller's opinion is illegal.

The subcommittee held three hearings, on April 13, 22, and 27, 1950. The record has been printed and is available for the use of the Senators. With respect to the report, I wish to emphasize the following:

It has been unanimously approved by the members of the subcommittee.

It was submitted to the full Committee on Banking and Currency, and by them was approved and ordered to be filed with the Senate.

Prior to the issuance of this report, the subcommittee made copies available on a confidential basis to the Reconstruction Finance Corporation, inviting comments either as to the accuracy of the facts or the fairness of the subcommittee's conclusions.

It is the view of the committee that the Texmass loan is not in accord with the intent of Congress.

In a series of extensions the Texmass Petroleum Co. was given eight months from the date of the original loan resolution, September 29, 1949, within which to meet conditions of the loan. The last extension granted occurred after two of the subcommittee's hearings, in which facts were developed and brought to the specific attention of the directors of the Reconstruction Finance Corporation, which in the judgment of the subcommittee should unquestionably have led the directors to decline requests for further extensions. Prior to this last extension the directors had also been informed of the conclusions of the subcommittee with respect to the Texmass loan. On Wednesday, May 17, 1950, the Texmass Petroleum Co. loan funds were disbursed.

I do not propose to take the time of the Senate to review the facts, since they are fully set forth in the subcommittee's hearings and in the report. However, I do desire to read into the record at this point the conclusions unanimously approved by the subcommittee. They are as follows:

CONCLUSIONS OF THE SUBCOMMITTEE

From its study of the facts and circumstances surrounding the Reconstruction Finance Corporation loan to the Texmass Petroleum Co., the subcommittee makes the following findings and conclusions:

1. From the record before the subcommittee, it is evident that the Board of Directors of the Reconstruction Finance Corporation gave only casual and superficial consideration and study to the Texmass Petroleum Co. loan. Those directors who approved this loan, and extensions thereof, disclosed inadequate knowledge of the significant facts and features of the Texmass Petroleum Co. loan. They overruled the findings and recommendations of their own review committee without persuasive evidence justifying such action.

The subcommittee believes that the lending of public funds is a function requiring at least an equal degree of care with that desirable for the protection of the investing public. The record shows, however, that the Securities and Exchange Commission in reviewing the registration of certain securities of the Texmass Petroleum Co. scrutinized the representations of the Texmass Petroleum Co. and the significant facts far more thoroughly and effectively than did the Board of Directors of the Reconstruction Finance Corporation with respect to the loan.

The subcommittee is of the opinion that the Directors of the Reconstruction Finance Corporation were remiss in their duty both in failing to avail themselves of the full facts within the control of the Securities and Exchange Commission and in failing to give adequate weight to those facts.

2. On the record before the subcommittee it appears that the primary consideration in the Texmass Petroleum Co. loan is not in the interest of the general public. On the contrary, it is primarily a "bail-out" of existing creditors of the borrower. Eighty-one percent of the loan funds will go to insurance companies, banks, other creditors, and individual investors, minimizing their risk of loss in a highly speculatve venture.

3. The Reconstruction Finance Corporation has failed to convince the subcommittee that this loan is of the character intended by Congress to be made under the authority of the Reconstruction Finance Corporation Act of 1948. The Reconstruction Finance Corporation in its records, its statement to the subcommittee and the testimony of its officials has not made an affirmative showing that this loan will, as prescribed in the act, "encourage small business," "help in maintaining economic stability of the country," and "assist in promoting maximum employment and production," to the extent necessary to justify disbursement of public funds "to aid in financing agriculture, commerce, and industry."

4. The Reconstruction Finance Corporation has not established that the financial assistance to the Texmass Petroleum Co. "is not otherwise available on reasonable terms," as required by the act. The subcommittee has in mind that the venture is of such speculative nature that financial assistance should have been provided, in part at least, by risk capital from private sources.

5. The Reconstruction Finance Corporation has not shown that the loan is of such "sound value or so secured as reasonably to assure retirement or repayment," as required by the act. On the estimates of reserves and earnings most favorable to the borrower, relied upon by the Reconstruction Finance Corporation, the loan cannot be repaid within 10 years, the maximum period for which Reconstruction Finance Corporation is authorized to make business loans. On the basis of estimates relied upon by the Reconstruction Finance Corporation of the value of the oil and gas reserves and equipment offered as collateral by the Texmass Petroleum Co. and the formula employed by the Reconstruction Finance Corporation to determine the sound loan value of such collateral, a loan in the amount of $15,100,000 is not justified.

I now send to the desk the interim report on the Texmass Petroleum Co. loan.

The PRESIDING OFFICER. Without objection, the report will be received and printed.

THE PRESIDENT'S CABINET MEETING IN CHICAGO—AN EDITORIAL FROM THE INDIANAPOLIS STAR

Mr. CAPEHART. Mr. President, I desire to read an editorial which appeared in the Indianapolis Star on Tuesday, May 16, 1950, the caption of which is "An Insult to the Republic":

AN INSULT TO THE REPUBLIC

The irresponsible, arrogant, power-drunk slapstick nature of the Truman administra-

81ST CONGRESS
2D SESSION

S. RES. 265

IN THE SENATE OF THE UNITED STATES

APRIL 27 (legislative day, MARCH 29), 1950

Mr. BREWSTER submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

MAY 18 (legislative day, MARCH 29), 1950

Reported by Mr. MCCLELLAN, without recommendation

MAY 19 (legislative day, MARCH 29), 1950

Considered and disagreed to

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 21 of 1950 transmitted to Congress by the President on March 13, 1950.

81ST CONGRESS
2D SESSION

S. RES. 265

RESOLUTION

Disapproving Reorganization Plan Numbered 21 of 1950.

By Mr. BREWSTER

APRIL 27 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

MAY 18 (legislative day, MARCH 29), 1950
Reported without recommendation

MAY 19 (legislative day, MARCH 29), 1950
Considered and disagreed to

81ST CONGRESS } HOUSE OF REPRESENTATIVES { DOCUMENT
2d Session } { No. 587

REORGANIZATION PLAN NO. 22 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 22 OF 1950

MAY 9, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 22 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. The plan improves the grouping of Government programs according to their major purposes by transferring the Federal National Mortgage Association from the Reconstruction Finance Corporation to the Housing and Home Finance Agency. This reorganization carries out the specific recommendation of the Commission on Organization of the Executive Branch of the Government that "The Federal National Mortgage Association be placed under the Administrator of the Housing and Home Finance Agency."

At present, the Federal National Mortgage Association, a wholly owned Government corporation, is a subsidiary of the Reconstruction Finance Corporation. Its purpose is to provide a secondary market for home mortgages insured or guaranteed by other Government agencies through the purchase, service, and sale of such mortgages. In addition, it is authorized to make direct loans for housing in Alaska. As of the end of March 1950 its total holdings were approximately a billion dollars and its outstanding commitments to purchase were more than $1,400,000,000 in addition. Such a volume of activity has an obvious impact on the Government's entire housing program.

The Congress has long recognized that the function of such a secondary mortgage market is closely related to the entire housing program. The Federal National Mortgage Association originally was chartered by the head of the Federal Housing Administration as authorized by

title III of the National Housing Act. In rechartering the Federal National Mortgage Association 2 years ago the Congress recognized the relationship between it and the operations of the Housing and Home Finance Agency by providing that the Federal Housing Commissioner alone would have authority to determine whether and when the Federal National Mortgage Association should be terminated. This act also required submission of semiannual reports to the Federal Housing Commissioner and for the transmittal by him of these reports to the Congress together with his recommendations thereon.

Nearly 3 years ago the Congress approved the establishment of the Housing and Home Finance Agency under an Administrator who could be held responsible by the President and the Congress for the general coordination and supervision of Federal housing programs placed in the Housing Agency at that time. The Federal National Mortgage Association was not then made a part of the Housing Agency because the provisions of section 5 (e) of the reorganization act then in effect precluded submission of plans involving agencies whose organizational status had been changed by the Congress subsequent to January 1, 1945. The act of February 24, 1945, transferred the Federal Loan Agency, which included the Federal National Mortgage Association, from the Department of Commerce. Moreover, the holdings of the Federal National Mortgage Association amounted to only $7,500,000. This small volume of operation presented few immediate problems of coordination with other aspects of the entire housing program. However, the basic relationship of the Federal National Mortgage Association to the housing program was recognized by making the Chairman of the Reconstruction Finance Corporation, or his designee, a member of the National Housing Council.

The present high volume of activity by the Federal National Mortgage Association has radically altered the situation which existed in 1947 and has made it essential that these market operations be geared more closely into the Government's housing program. The manner in which these market operations are administered has a direct effect on the kind of mortgages written and the availability and cost of mortgage credit. The secondary market must be administered, therefore, at all times in full consistency with other programs affecting housing credit.

The Government seeks to accomplish the objectives of its housing program through the use of several methods. The purchase and sale of home mortgages in the secondary market by the Federal National Mortgage Association is merely one of such methods. Others include the insurance of home mortgages and improvement loans, insurance of shares of savings and loan associations, and loans and grants to local public agencies for the purpose of financing low-rent housing projects and slum clearance. All of these methods are means whereby the objectives of the housing program are achieved and should be the responsibility of the agency charged with that program.

The transfer of the Federal National Mortgage Association will not prevent the Reconstruction Finance Corporation from making loans to business enterprises on the security of real estate, or from accepting mortgages as collateral in connection with a business loan. This type of activity is consistent with normal business lending functions.

The transfer of the Federal National Mortgage Association to the Housing and Home Finance Agency will assure the necessary coor-

dination of its operations with other housing programs, thus providing a sounder basis for future progress toward a better-housed America. It is not probable that the reorganization in this plan will immediately result in reduced expenses, but in view of the relationship to other programs of housing aids, a more consistent approach in carrying out such policies will be possible and should result in long-term economies.

After investigation I have found, and I hereby declare, that each reorganization included in Reorganization Plan No. 22 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

In view of the direct relation of the Federal National Mortgage Association to other housing finance programs, which was initially recognized by the Congress and only last year reiterated by the Commission on Organization of the Executive Branch of the Government, I recommend that the Congress grant its approval to the transfer provided in this reorganization plan.

HARRY S. TRUMAN.

THE WHITE HOUSE, *May 9, 1950.*

REORGANIZATION PLAN NO. 22 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

FEDERAL NATIONAL MORTGAGE ASSOCIATION

SECTION 1. *Transfer of Association and its functions.*—The Federal National Mortgage Association, together with its functions, is hereby transferred from the Reconstruction Finance Corporation to the Housing and Home Finance Agency and shall be administered subject to the direction and control of the Housing and Home Finance Administrator.

SEC. 2. *Transfers to the Housing Administrator.*—There are hereby transferred from the Reconstruction Finance Corporation to the Housing and Home Finance Administrator—

(1) the notes of the Federal National Mortgage Association payable to the Reconstruction Finance Corporation;

(2) the capital stock of the Federal National Mortgage Association;

(3) the function of the Reconstruction Finance Corporation of making payments on its notes issued to the Secretary of the Treasury in an amount equal to (a) the unpaid principal of, and accrued interest on, the notes of the Federal National Mortgage Association transferred under (1) above, (b) any funds of the Reconstruction Finance Corporation transferred under the provisions of section 5 hereof, (c) the book value of any office furniture and equipment of the Reconstruction Finance Corporation transferred under the provisions of section 5 hereof, and (d) the par value of the capital stock of the Federal National Mortgage Association plus the amount of its surplus paid in by the Reconstruction Finance Corporation;

(4) the function of issuing notes or other obligations to the Secretary of the Treasury, which may be purchased by the Secretary, under section 7 of the Reconstruction Finance Corporation Act, as amended, in an amount not in excess of that necessary to finance at any one time the outstanding balances of the investments, loans, and purchases held by the Federal National Mortgage Association, taking into consideration other balance-sheet items;

(5) except as otherwise provided in this reorganization plan, all other functions of the Reconstruction Finance Corporation (including functions of the Board of Directors of such Corporation and functions of the Chairman of the Board of Directors of such Corporation) with respect to the Federal National Mortgage Association; and

(6) all functions of the Federal Housing Commissioner with respect to the Federal National Mortgage Association.

SEC. 3. *Board of Directors and officers.*—Functions with respect to serving, including eligibility to serve, as members of the Board of Directors of the Federal National Mortgage Association and as officers of such Association are hereby transferred from the members of the Board of Directors of, and from the officers and employees of, the Reconstruction Finance Corporation to the officers and employees of the Housing and Home Finance Agency (including those of the constituent agencies of the Housing and Home Finance Agency).

SEC. 4. *Performance of functions of Administrator.*—The Housing and Home Finance Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Housing and Home Finance Agency of any function transferred to such Administrator by the provisions of this reorganization plan.

SEC. 5. *Transfer of records, property, personnel, and funds.*—There are hereby transferred with the functions transferred by this reorganization plan, respectively, all of the assets, liabilities, contracts, property, records, and unexpended balances of authorizations, allocations and other funds, available or to be made available, of the Federal National Mortgage Association, and so much of the assets, liabilities, contracts, property, records, personnel, and unexpended balances of authorizations, allocations, and other funds, available or to be made available, of the Reconstruction Finance Corporation and relating to functions transferred by the provisions of this reorganization plan, as the Director of the Bureau of the Budget shall determine to be necessary for the administration of such functions, excluding, however, (1) the members of the Board of Directors of the Federal National Mortgage Association in office immediately prior to the taking effect of the provisions of this reorganization plan, and (2) the officers of the Association then in office. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

SEC. 6. *Effective date.*—The provisions of this reorganization plan shall take effect 60 days after they would take effect under section 6 (a) of the Reorganization Act of 1949 in the absence of this section.

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81ST CONGRESS
2D SESSION

S. RES. 299

IN THE SENATE OF THE UNITED STATES

JUNE 15 (legislative day, JUNE 7), 1950

Mr. GEORGE (for himself and Mr. CAIN) submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 22 transmitted to Congress by the President on May 9, 1950.

81ST CONGRESS
2D SESSION

S. RES. 299

RESOLUTION

Disapproving Reorganization Plan Numbered 22 of 1950.

By Mr. GEORGE and Mr. CAIN

JUNE 15 (legislative day, JUNE 7), 1950

Referred to the Committee on Expenditures in the Executive Departments

Calendar No. 1939

81st Congress, 2d Session — SENATE — Report No. 1936

REORGANIZATION PLAN NO. 22 OF 1950, PROVIDING FOR THE TRANSFER OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION FROM THE RECONSTRUCTION FINANCE CORPORATION TO THE HOUSING AND HOME FINANCE AGENCY

JULY 5 (legislative day, JULY 1), 1950.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany S. Res. 299]

The Committee on Expenditures in the Executive Departments, to whom was referred Senate Resolution 299, expressing disapproval of Reorganization Plan No. 22 of 1950, report thereon without recommendation. The effect of the adoption of the resolution will be to prevent Reorganization Plan No. 22 from becoming effective on the expiration of the 120-day period as provided in the plan pursuant to the Reorganization Act of 1949. The committee's reason for refraining to make any specific recommendation to the Senate with respect to the adoption or rejection of the resolution is that, by so doing, there will be made possible the submission of a more factual and impartial statement of the various factors weighing for and against the plan.

The complete texts of Reorganization Plan No. 22 of 1950 and the President's message pertaining thereto are printed hereinafter as appendix A.

PURPOSE

The plan proposes, broadly, to transfer the Federal National Mortgage Association from the Reconstruction Finance Corporation, by which the Association has been operated as a subsidiary since its chartering in 1938, to the Housing and Home Finance Agency, there to be "administered subject to the direction and control of the Housing and Home Finance Administrator." The Administrator would be authorized to provide for the performance of any of the functions involved in this transfer by any other officer, employee, or agency of the Housing and Home Finance Agency as he may determine.

As necessary adjuncts to the transfer of FNMA, the plan makes provision for transfer of such technical matters as statutory eligibility to serve as members of the Board of Directors of the Corporation, the financial obligations and financing processes which exist in the parent-subsidiary relationship between the Reconstruction Finance Corporation and the Federal National Mortgage Association, and the authority now lodged in the Federal Housing Commissioner to terminate the life of the Association. Similarly, the plan provides for transfer of related personnel, records, property, and funds. By special provision of section 6 of the plan, the effective date will occur 60 days beyond the date on which it would have occurred under the normal operation of the Reorganization Act of 1949 (Public Law 109, 81st Cong., June 20, 1949); that is, the effective date will be September 9, 1950, provided a resolution of disapproval is not adopted by either House of the Congress not later than July 8, 1950.

RECOMMENDATIONS OF THE HOOVER COMMISSION

The plan is in direct conformance with recommendation No. 11 appearing in the Hoover Commission report on Federal business enterprises, as follows:

> We recommend that the Federal National Mortgage Association be placed under the Administrator of the Housing and Home Finance Agency.

There is no reported dissent to that recommendation of the Commission itself. However, it should be noted that the Hoover Commission task force report on lending agencies carries a recommendation for the discontinuance of the Federal National Mortgage Association. The task force recommends that the Government's secondary market operations in home-mortgage loans be transferred to the Federal home loan banks, indicating its view that the function is more closely related to that group of institutions. In connection with its recommendation, the task force correctly reported that on March 10, 1948, the Senate Committee on Banking and Currency recommended the dissolution of the Federal National Mortgage Association. The committee's position at that time was that there was no further need for the activity (S. Rept. 974, 80th Cong., 2d sess., March 10, 1948). Nevertheless, the Federal National Mortgage Association was not abolished by the Congress and continues to function today under the supervision of the Reconstruction Finance Corporation.

HISTORICAL BACKGROUND

The Federal National Mortgage Association was chartered on February 10, 1938, by the Federal Housing Administrator pursuant to authority of title III of the National Housing Act, approved June 27, 1934 (12 U. S. C. 1701 et seq.). The Association was essentially rechartered by amendments to title III of the National Housing Act appearing in Public Law 864, Eightieth Congress, approved July 1, 1948. Both under the initial charter and subsequent legislation, the life of the Association has been subject to the determination of the Federal Housing Administrator (now Federal Housing Commissioner), although the Association is wholly owned by RFC and its Board of Directors and officers are chosen from personnel of RFC.

Through the years since its inception, the enabling legislation of the Federal National Mortgage Association has been altered in various respects. There have been imposition of restrictions in the matter of mortgage purchases, prohibition of a policy once followed of making advance commitments to mortgagees with respect to planned future construction, and a number of modifications in the total financial authorization granted to the Association, to indicate a few of the functional changes which have occurred. The Association has, however, continued uninterruptedly in operation since its founding as a subsidiary of RFC and has been administered exclusively by personnel. including directors and officers, who have been concurrently personnel of RFC.

TESTIMONY ON SENATE RESOLUTION 299

The committee held hearings on Reorganization Plan No. 22 of 1950 on June 28 and 29, 1950. Ten witnesses testified, seven in favor of the resolution, and three against the resolution or in favor of the plan.

Although plan No. 22 conforms completely to the recommendation of the Hoover Commission, the testimony of witnesses, both proponents and opponents, tended to establish that the question here involved is not primarily of an organizational nature and, further, that substantial argument can be made on organizational grounds both for and against the transfer.

The conclusion to be reached in this particular relation is controlled entirely by whether the mortgage-purchasing function of the Federal National Mortgage Association is viewed as a housing activity or as a financial activity. The opponents of the plan naturally contend that the function is wholly financial and that the Association's only relation to the functions of the Housing and Home Finance Agency is that the security for the financial paper it purchases consists of housing developments. In support of this view is the fact that the Federal Housing Administrator, in chartering FNMA in 1938, made it a subsidiary of RFC, presumably because the policy makers of that year visualized the planned activities of the Association as most closely related to the activities of RFC. On the other hand, the proponents of the plan contend that the primary purpose of FNMA is to foster new housing developments by providing a source of credit through the so-called secondary mortgage market, thus freeing primary market funds for new investment in such new housing construction. There can be no argument that there is soundness in this position, especially in the light of the established premise that the Government's entrance into areas of the economy normally reserved for private enterprise has been, and should continue to be, devoid of the profit motive.

The committee has concluded that the real essence of both the opposition to and the support of the plan revolves about policy issues, policies which the Association has followed in the past and policies which it is feared may be followed in the future should the transfer to the Housing and Home Finance Agency be consummated. In support of the plan, criticism was voiced regarding the policy of FNMA of making various commitments to purchase mortgages which would be placed against construction yet to be done and, although this practice has been prohibited by the Housing Act of 1950 (Public Law 475, 81st Cong., April 20, 1950), its previous existence was represented as a major reason for justifying the transfer. Testimony

was somewhat confused as to whether this policy had hindered or had helped the national housing program, and here again the committee feels that argument of substance can be made on either side. To illustrate, the making of advance commitments undoubtedly encouraged building, which is the intent of the Government's housing programs. But it can be argued that such commitments, necessarily far in advance of actual construction, unwisely reduced the liquidity of the Association's cash assets. There are also grounds for belief that the policy gave rise to private profiteering through questionable market manipulations.

On another issue of policy, the proponents of the plan attacked the Association's method of disposing of its mortgage holdings. This has heretofore been accomplished by sending notices to prospective purchasers stating in detail the types of mortgages for sale and the rates at which such sales would be made. The criticism here is that the policy is clear evidence of the fundamental profit-making attitude of the Association. The proponents of the plan maintain that the proper method of selling would be through the advertisement for highest bids above par plus accrued interest. Those in favor of the plan expressed confidence that, through coordination of the financial activities of FNMA with the general housing activities of HHFA, the national housing program would be substantially aided through further gathering together under unified direction those Federal programs designed to provide assistance in the housing field, through the emphasizing of housing itself, rather than a purely financial undertaking, as the primary mission of FNMA, and subsequently through the elimination of policies which are alleged to have operated to the detriment of the housing program.

On the other hand, the opponents of the plan contend that the functions of FNMA are in reality more truly a financial, rather than a housing, enterprise. It is their view that the Association's policies, as sponsored by the Reconstruction Finance Corporation, have materially aided the national housing program both through the wisdom of its conception and administration and through the support which it has afforded to mortgagees in the primary market. Testimony was given that the mortgage-selling methods of the Association are necessitated in order to preserve the private market in similar dealings. A number of witnesses against the plan expressed serious apprehension at the concentration of power which would be brought about, were the transfer completed, through the placing under the control of the Housing and Home Finance Administrator of authority to insure mortgages, to buy those mortgages and thereafter to dispose of them at such times and under such regulations as he may consider advisable. Representatives of veterans organizations expressed alarm lest the transfer jeopardize the interests of the veterans housing program. In support of their position, they pointed to the fact that the present dealings of FNMA under RFC are almost exclusively in mortgages guaranteed by the Veterans' Administration. It is their view that the history of the Housing and Home Finance Agency is one of antipathy to the veterans housing program, and they emphasize that the support given by FNMA to the FHA mortgage-insurance program of HHFA could be expanded to the detriment of the VA guaranty program, the support of which might be withdrawn entirely by a mere change in operating policy.

CONCLUSIONS

On the basis of the testimony presented and facts otherwise available, the committee is unable to arrive at any clear-cut decision as to whether Reorganization Plan No. 22 should or should not be permitted to take effect. The plan does conform to the organizational recommendation of the Hoover Commission, apparently predicated upon the view that the functions of the Federal National Mortgage Association are basically of a housing nature, but we believe that an equally sound argument can be formulated on the premise that those functions are just as basically of a financial nature.

We believe that the situation with respect to this plan is somewhat unusual in that the proponents of the plan base their position on criticism of what has gone before, the most objectionable of which, the policy of advance commitments to purchase mortgages, cannot by law recur, and the opponents of the plan base their position on apprehensions of what future policies may be. The committee regrets that it has been unable to adduce from any of the testimony at the hearings any convincing argument either for or against the plan, and is inclined to the belief that the functions of FNMA can, under the authority now granted to it by the Congress, be administered as efficiently by either of the controlling agencies. There is admittedly no prospect of more economy in operation nor of any appreciable increase in efficiency. On the contrary, because of the fact that the plan excludes from the transfer the present officers and directors of FNMA, it would involve the possible risk that both more cost and less efficiency might result should the transfer be effected. In this relation, it must be remembered that FNMA is serviced and conducted wholly by officers and employees of the Reconstruction Finance Corporation. In the field, the activities of the Association are carried on through the 31 loan agencies of RFC. In fact, it may be said that organizationally the two entities function as a unit. The lifting of this going concern from the location which it has occupied since its inception can scarcely be expected to produce administrative economy and efficiency, although it is admitted that its administration might be as effectively conducted by corresponding officials of HHFA.

Some criticism was voiced of the monetary ceiling presently controlling the financial operations of FNMA, presently $2,750,000,000. It was the view of a number of witnesses that that limitation could be substantially reduced, possibly by as much as $1,000,000,000, thus bringing about a similar reduction in the public debt. In the interest of accuracy, the committee desires to clarify this point. The size of the authorization which may be granted by the Congress to FNMA, or to any other agency, is not of itself controlling as to the size of the public debt. Only if that authorization is fully utilized need the funds be provided; and in the case of FNMA, operating as it does on what may be called a revolving-fund basis, the effect on the public debt is at a minimum. This is so because of the very nature in which the Association acquires its working capital. The Reconstruction Finance Corporation is statutorily enabled to issue its obligations to the Secretary of the Treasury for whatever funds within lawful limits FNMA may require. The Association in turn borrows this money from RFC and invests in the mortgage securities which it is authorized to purchase. As these are liquidated, cash in excess of ordinary

operating requirements so obtained by the Association is currently repaid to RFC, which in turn pays off its obligations to the Secretary of the Treasury. Thus, regardless of the amount of the authorization which may be granted by the Congress to FNMA, the impact upon the Treasury and upon the public debt is influenced only by the usage of funds under that authorization, and it must be remembered that the record of the Association is a record of profit making, profit making to itself and ultimately to the Treasury.

In summation, it is the view of the committee that the purposes of the Federal National Mortgage Association can be accomplished satisfactorily under the auspices of either the Reconstruction Finance Corporation or of the Housing and Home Finance Agency. As a general principle, the committee is somewhat doubtful of the wisdom of disturbing an organization which, by general admission, has in the broad perspective served its purpose well. If the Senate desires to see Reorganization Plan No. 22 become effective, it is the view of the committee that its decision must necessarily rest upon the intangible hope that the operational policies of the Housing and Home Finance Administrator would be better and more effective policies than those of the Reconstruction Finance Corporation through its closer relationship to and operations in the housing field. Under the law, the program of FNMA must be the same, regardless of the agency under which it functions, but the manner in which those laws are interpreted and applied may deviate according to the views of the executive and administrative authority.

Appendix A

[S. Doc. No. 587, 81st Cong., 2d sess.]

Message From the President of the United States Transmitting Reorganization Plan No. 22 of 1950

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 22 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. The plan improves the grouping of Government programs according to their major purposes by transferring the Federal National Mortgage Association from the Reconstruction Finance Corporation to the Housing and Home Finance Agency. This reorganization carries out the specific recommendation of the Commission on Organization of the Executive Branch of the Government that "The Federal National Mortgage Association be placed under the Administrator of the Housing and Home Finance Agency."

At present, the Federal National Mortgage Association, a wholly owned Government corporation, is a subsidiary of the Reconstruction Finance Corporation. Its purpose is to provide a secondary market for home mortgages insured or guaranteed by other Government agencies through the purchase, service, and sale of such mortgages. In addition, it is authorized to make direct loans for housing in Alaska. As of the end of March 1950 its total holdings were approximately a billion dollars and its outstanding commitments to purchase were more than $1,400,000,000 in addition. Such a volume of activity has an obvious impact on the Government's entire housing program.

The Congress has long recognized that the function of such a secondary mortgage market is closely related to the entire housing program. The Federal National Mortgage Association originally was chartered by the head of the Federal Housing Administration as authorized by title III of the National Housing Act. In rechartering the Federal National Mortgage Association 2 years ago the Congress recognized the relationship between it and the operations of the Housing and Home Finance Agency by providing that the Federal Housing Commissioner alone would have authority to determine whether and when the Federal National Mortgage Association should be terminated. This act also required submission of

semiannual reports to the Federal Housing Commissioner and for the transmittal by him of these reports to the Congress together with his recommendations thereon.

Nearly 3 years ago the Congress approved the establishment of the Housing and Home Finance Agency under an Administrator who could be held responsible by the President and the Congress for the general coordination and supervision of Federal housing programs placed in the Housing Agency at that time. The Federal National Mortgage Association was not then made a part of the Housing Agency because the provisions of section 5 (e) of the reorganization act then in effect precluded submission of plans involving agencies whose organizational status had been changed by the Congress subsequent to January 1, 1945. The act of February 24, 1945, transferred the Federal Loan Agency, which included the Federal National Mortgage Association, from the Department of Commerce. Moreover, the holdings of the Federal National Mortgage Association amounted to only $7,500,000. This small volume of operation presented few immediate problems of coordination with other aspects of the entire housing program. However, the basic relationship of the Federal National Mortgage Association to the housing program was recognized by making the Chairman of the Reconstruction Finance Corporation, or his designee, a member of the National Housing Council.

The present high volume of activity by the Federal National Mortgage Association has radically altered the situation which existed in 1947 and has made it essential that these market operations be geared more closely into the Government's housing program. The manner in which these market operations are administered has a direct effect on the kind of mortgages written and the availability and cost of mortgage credit. The secondary market must be administered, therefore, at all times in full consistency with other programs affecting housing credit.

The Government seeks to accomplish the objectives of its housing program through the use of several methods. The purchase and sale of home mortgages in the secondary market by the Federal National Mortgage Association is merely one of such methods. Others include the insurance of home mortgages and improvement loans, insurance of shares of savings and loan associations, and loans and grants to local public agencies for the purpose of financing low-rent housing projects and slum clearance. All of these methods are means whereby the objectives of the housing program are achieved and should be the responsibility of the agency charged with that program.

The transfer of the Federal National Mortgage Association will not prevent the Reconstruction Finance Corporation from making loans to business enterprises on the security of real estate, or from accepting mortgages as collateral in connection with a business loan. This type of activity is consistent with normal business lending functions.

The transfer of the Federal National Mortgage Association to the Housing and Home Finance Agency will assure the necessary coordination of its operations with other housing programs, thus providing a sounder basis for future progress toward a better-housed America. It is not probable that the reorganization in this plan will immediately result in reduced expenses, but in view of the relationship to other programs of housing aids, a more consistent approach in carrying out such policies will be possible and should result in long-term economies.

After investigation I have found, and I hereby declare, that each reorganization included in Reorganization Plan No. 22 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

In view of the direct relation of the Federal National Mortgage Association to other housing finance programs, which was initially recognized by the Congress and only last year reiterated by the Commission on Organization of the Executive Branch of the Government, I recommend that the Congress grant its approval to the transfer provided in this reorganization plan.

HARRY S. TRUMAN.

THE WHITE HOUSE, *May 9, 1950.*

REORGANIZATION PLAN NO. 22 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

FEDERAL NATIONAL MORTGAGE ASSOCIATION

SECTION 1. *Transfer of Association and its functions.*—The Federal National Mortgage Association, together with its functions, is hereby transferred from the

Reconstruction Finance Corporation to the Housing and Home Finance Agency and shall be administered subject to the direction and control of the Housing and Home Finance Administrator.

SEC. 2. *Transfers to the Housing Administrator.*—There are hereby transferred from the Reconstruction Finance Corporation to the Housing and Home Finance Administrator—

(1) the notes of the Federal National Mortgage Association payable to the Reconstruction Finance Corporation;

(2) the capital stock of the Federal National Mortgage Association;

(3) the function of the Reconstruction Finance Corporation of making payments on its notes issued to the Secretary of the Treasury in an amount equal to (a) the unpaid principal of, and accrued interest on, the notes of the Federal National Mortgage Association transferred under (1) above, (b) any funds of the Reconstruction Finance Corporation transferred under the provisions of section 5 hereof, (c) the book value of any office furniture and equipment of the Reconstruction Finance Corporation transferred under the provisions of section 5 hereof, and (d) the par value of the capital stock of the Federal National Mortgage Association plus the amount of its surplus paid in by the Reconstruction Finance Corporation;

(4) the function of issuing notes or other obligations to the Secretary of the Treasury, which may be purchased by the Secretary, under section 7 of the Reconstruction Finance Corporation Act, as amended, in an amount not in excess of that necessary to finance at any one time the outstanding balances of the investments, loans, and purchases held by the Federal National Mortgage Association, taking into consideration other balance-sheet items;

(5) except as otherwise provided in this reorganization plan, all other functions of the Reconstruction Finance Corporation (including functions of the Board of Directors of such Corporation and functions of the Chairman of the Board of Directors of such Corporation) with respect to the Federal National Mortgage Association; and

(6) all functions of the Federal Housing Commissioner with respect to the Federal National Mortgage Association.

SEC 3. *Board of Directors and officers.*—Functions with respect to serving, including eligibility to serve, as members of the Board of Directors of the Federal National Mortgage Association and as officers of such Association are hereby transferred from the members of the Board of Directors of, and from the officers and employees of, the Reconstruction Finance Corporation to the officers and employees of the Housing and Home Finance Agency (including those of the constituent agencies of the Housing and Home Finance Agency).

SEC. 4. *Performance of functions of Administrator.*—The Housing and Home Finance Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Housing and Home Finance Agency of any function transferred to such Administrator by the provisions of this reorganization plan.

SEC. 5. *Transfer of records, property, personnel, and funds.*—There are hereby transferred with the functions transferred by this reorganization plan, respectively, all of the assets, liabilities, contracts, property, records, and unexpended balances of authorizations, allocations, and other funds, available or to be made available, of the Federal National Mortgage Association, and so much of the assets, liabilities, contracts, property, records, personnel, and unexpended balances of authorizations, allocations, and other funds, available or to be made available, of the Reconstruction Finance Corporation and relating to functions transferred by the provisions of this reorganization plan, as the Director of the Bureau of the Budget shall determine to be necessary for the administration of such functions, excluding, however, (1) the members of the Board of Directors of the Federal National Mortgage Association in office immediately prior to the taking effect of the provisions of this reorganization plan, and (2) the officers of the Association then in office. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

SEC. 6. *Effective date.*—The provisions of this reorganization plan shall take effect 60 days after they would take effect under section 6 (a) of the Reorganization Act of 1949 in the absence of this section.

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Calendar No. 1939

81ST CONGRESS
2D SESSION

S. RES. 299

[Report No. 1936]

IN THE SENATE OF THE UNITED STATES

JUNE 15 (legislative day, JUNE 7), 1950

Mr. GEORGE (for himself and Mr. CAIN) submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

JULY 5 (legislative day, JULY 1), 1950

Reported by Mr. MCCLELLAN, without recommendation

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 22 transmitted to Congress by the President on May 9, 1950.

Calendar No. 1939

81ST CONGRESS
2D SESSION

S. RES. 299

[Report No. 1936]

RESOLUTION

Disapproving Reorganization Plan Numbered 22 of 1950.

By Mr. GEORGE and Mr. CAIN

JUNE 15 (legislative day, JUNE 7), 1950
Referred to the Committee on Expenditures in the Executive Departments

JULY 5 (legislative day, JULY 1), 1950
Reported without recommendation

The VICE PRESIDENT. A quorum is present. The quorum call discloses the presence of 79 Senators.

The question is on agreeing to Senate Resolution 290.

Mr. MORSE and other Senators asked for the yeas and nays.

The yeas and nays were not ordered.

The VICE PRESIDENT. The question is on agreeing to the resolution. [Putting the question.]

A majority of the authorized membership of the Senate having voted in the affirmative, the resolution is agreed to.

REORGANIZATION PLAN NO. 22

In accordance with the unanimous-consent agreement entered into earlier today, the Senate proceeded to the consideration of the resolution (S. Res. 299), which is as follows:

Resolved, That the Senate does not favor the Reorganization Plan No. 22 transmitted to Congress by the President on May 9, 1950.

The VICE PRESIDENT. The question is on agreeing to the resolution. Under the unanimous-consent agreement entered into, 1 hour of debate is available, if desired, with the time to be equally divided between the proponents and the opponents, and to be controlled, respectively, by the Senator from Washington [Mr. CAIN] and the Senator from Pennsylvania [Mr. MYERS].

Mr. CAIN. Mr. President, I yield 10 minutes to the Senator from Wisconsin [Mr. MCCARTHY].

Mr. MCCARTHY. Mr. President, in view of the fact that I may not be able to finish my remarks in the 10 minutes available to me, I ask unanimous consent, if I do not complete my remarks, that all my remarks appear together when I obtain the floor later.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MCCARTHY. I do not address myself to the resolution before the Senate. The Senator from Washington [Mr. CAIN] has 10 additional minutes available to him which he kindly allotted to me to discuss a matter of a great deal of importance.

(Mr. MCCARTHY proceeded to address the Senate on the question of the necessity for the protection of the Government against Communists and subversive groups.)

The VICE PRESIDENT. The time of the Senator from Wisconsin has expired.

Mr. MCCARTHY. Mr. President, I shall continue later.

(Subsequently Mr. MCCARTHY resumed and concluded his speech, which appears entire elsewhere in today's RECORD under the appropriate heading.)

Mr. CAIN. Mr. President, Reorganization Plan No. 22, which was submitted by the President to the Congress on May 9, 1950, has for its purpose the transfer of the Federal National Mortgage Association from the Reconstruction Finance Corporation to the Housing and Home Finance Agency. Senate Resolution 299, submitted by the senior Senator from Georgia [Mr. GEORGE] and the junior Senator from Washington, is in opposition to Reorganization Plan No. 22, and was offered because of the following views, shared jointly by the Senators from Georgia and Washington and other Senators.

DISSIMILARITY OF PURPOSE

One of the principal purposes of the Reorganization Act of 1949 was to provide for the grouping, coordination, and consolidation of agencies and functions according to major purposes. The President's message to the Congress dated May 9, 1950, states that one of the purposes of plan No. 22 is to assure the necessary coordination of FNMA's operations with other housing programs.

Mr. President, there is little relation between FNMA's activities providing for a secondary market for Government-guaranteed or insured home-loan mortgages, and the administration of the Government's housing program. FNMA is essentially a credit and banking activity and not a housing activity.

Mr. President, the fact that the functions of several agencies of the Government have relation one to the other does not mean that they all serve the same major purpose. Thus the fact that FNMA buys mortgages insured by FHA has little or no bearing on the functions performed by each. Were this fact any criterion, FNMA should more properly be placed under the jurisdiction of the Administrator of Veterans' Affairs, since in recent months at least 90 percent of the new mortgage loans being acquired by FNMA are home loans guaranteed by the Veterans' Administration.

If Reorganization Plan No. 22, which is the pending business, would result in either substantial economies or greater efficiencies, in my opinion the plan ought to be approved by the Senate this afternoon, but plan No. 22, if adopted, will never improve efficiency or achieve any economies.

Permit me to draw attention to a fact which all of us all too often forget. Section 2 (c) of the Reorganization Act of 1945 requires that in any consolidation of existing agencies, there shall be accomplished an over-all reduction of at least 25 percent in the administrative costs of the agency or agencies involved. No single witness appearing before the committee in opposition to Senate Resolution 299, or in favor of Reorganization Plan No. 22, was able, in reply to the specific question addressed to every witness by the committee chairman, the senior Senator from Arkansas, to establish any economy that would result in the proposed transfer. This point is further established by language found in the committee report which accompanies Senate Resolution 299. I should like to read but a portion of one paragraph, to be found on page 5:

> There is admittedly no prospect of more economy in operation nor of any appreciable increase in efficiency. On the contrary, because of the fact that the plan excludes from the transfer the present officers and directors of FNMA, it would involve the possible risk that both more cost and less efficiency might result should the transfer be effected.

I submit that the present HHFA, itself a creation of a reorganization plan back in 1947, never has complied with the intended purpose of the Reorganization Act of 1945. As a matter of fact, the 1951 budget calls for administrative expenses 400 percent greater than in 1947. The figures are: 1947, $1,518,000; 1951, requested in fiscal budget 1951, $6,000,000. The latter figure is only for the office of the Administrator.

Can we conceivably transfer FNMA to an agency which on the record is budgeted to cost 400 percent more now to operate than it did in 1947? This budgeted increase in HHFA's administrative costs did not contemplate the transfer of FNMA. The $6,000,000 item would have to be increased if FNMA were transferred to HHFA.

In contrast, let us look budgetwise at the RFC. Employees of RFC, in addition to their present duties, are handling FNMA operations without appreciable increase in personnel. This is reflected in the fact that RFC's administrative budget request for 1951, including its existing program covering tin, rubber, war liquidation, and all of its business lending activities in addition to FNMA, shows but a slight increase over 1949 actual expenditures; 1949 expenditures were $26,774,770; estimated for 1951 is $27,690,000.

Transfer of FNMA would place control of the secondary mortgage market under HHFA, and would seriously impair the veterans' home-construction program.

Mr. President, I believe that sentence in itself will be of real interest to every Member of this body, for the Senator from Washington, together with the Senator from Georgia, is merely saying in the sentence that if we transfer "Fannie May" from where it presently is, in the RFC, to the Housing and Home Finance Agency, we run an unnecessary risk of holding in jeopardy the veterans' housing program, which all of us have tried to do so much to accelerate in recent years.

It is a known fact, established by the figures, that the number of FHA mortgages being handled by "Fannie May" are diminishing at a rapid rate. On the other hand, the number and amount of Veterans' Administration guaranteed mortgages being handled by "Fannie May" have been and are daily increasing by leaps and bounds. It would therefore be extremely unwise, I think, for the policy of the Veterans' Administration relative to the present magnificent home-construction program to be dominated in the future by the Housing and Home Finance Agency.

Mr. MUNDT. Mr. President, will the Senator yield?

Mr. CAIN. I yield.

Mr. MUNDT. In view of the apparent injury the proposed transfer would do with respect to the cost of veterans' housing, I wonder whether the Senator from Washington is able to tell us the attitude of any of the veterans' organizations toward the reorganization plan.

Mr. CAIN. The question is an extremely pertinent and legitimate one, and the answer will be given to it in a moment.

Mr. President, during the 11-month period from July 1949 through May 1950, FNMA made commitments to purchase FHA-insured mortgages to the number of 17,798, and in the amount of $253,604,000. In that same period, FNMA

made commitments to purchase 201,192 VA-guaranteed mortgages in the amount of $1,522,842,000. Here we have a dollar ratio, VA to FHA, of 6 to 1. During the same 11-month period, we find that FNMA actually purchased $126,895,000 worth of FHA mortgages and $729,314,000 of VA mortgages, again a ratio, VA to FHA, of 6 to 1. In May 1950 FNMA held, in its portfolio, FHA mortgages totaling $266,865,000, and at the end of the same month held VA mortgages of $774,792,000. Here again we find that the predominant activity of FNMA is in the field of VA mortgages.

These figures, I may say in answer to the question recently submitted by the Senator from South Dakota, vividly portray the compelling reason why four of the veterans' organizations, namely, the Veterans of Foreign Wars, AMVETS, American Legion, and the Disabled American Veterans testified in sturdy opposition to Reorganization Plan No. 22.

The latest release from the Department of Commerce covering new construction activity, dated July 2, 1950, states that—

> Indications are that close to 1,250,000 new dwellings will be placed under construction in 1950, surpassing by far the 1949 record of 1,026,000 and the previous high of 937,000 units in 1925.

This new all-time housing-construction record is evidence of the present smooth operation within the mortgage market. Transfer of FNMA to HHFA, in the opinion of most competent observers in the construction industry, would bring about a decrease in volume and general disruption of the present veterans' housing program.

Mr. President, in conclusion, by way of summary, I should like to state only the obvious. Reorganization Plan No. 22 should be rejected because—

(a) It will cost much more money to administer "Fannie May" if it is transferred to the House and Home Finance Agency than if "Fannie May" remains where it is presently—an agency of the Reconstruction Finance Corporation.

(b) Reorganization Plan No. 22 ought to be rejected because if "Fannie May" is transferred from the RFC to the Housing and Home Finance Agency it will be necessary to select and train an administrative and processing staff. This unnecessary effort will consume weeks and months of precious time.

(c) Lastly, Mr. President, in the view of the senior Senator from Georgia [Mr. GEORGE] and the junior Senator from Washington, Reorganization Plan No. 22 ought to be rejected because if "Fannie May" is taken from the Reconstruction Finance Corporation and taken over by the Housing and Home Finance Agency the booming and healthy veterans' housing program will be disrupted, and injured for at least an uncertain and unknown period of time. Unless this program which has been supported and approved by every Senator on both sides of the aisle can be strengthened and materially assisted by the proposed transfer of "Fannie May" to the Housing and Home Finance Agency common sense dictates that plan No. 22 be rejected.

This plan, sir, could not substantially improve present-day mortgage conditions in America, which are currently both sound and productive, a compliment to everybody, including the RFC and "Fannie May." But the plan, if adopted, could wreck the good things which cover us so beneficially today.

Mr. MUNDT. Mr. President, will the Senator yield?

Mr. CAIN. I yield.

Mr. MUNDT. I wonder if, in addition to the very persuasive and compelling arguments which the junior Senator from Washington has presented so eloquently to the Senate, he would not like to comment on a statement made in the report issued by the Committee on Expenditures in the Executive Departments, in reporting the resolution to the Senate. We point out as follows:

> As a general principle, the committee is somewhat doubtful of the wisdom of disturbing an organization which, by general admission, has in the broad perspective served its purposes well.

In other words, when there are no economies to be effectuated, when there are no efficiencies to be secured, it seems to the committee, and to this speaker personally, to be the height of folly and a reckless experiment merely to be kicking organizations around from one administrative agency to another, thereby causing confusion and increased extravagance.

Mr. CAIN. The Senator from Washington thanks the Senator from South Dakota for the contribution which he has just made to the discussion. Both Senators believe that there should be adopted a reorganization plan only if it improves current conditions and results in a greater efficiency and in the saving of money. Reorganization Plan No. 22 plainly accomplishes neither of these benefits.

Mr. MUNDT. In other words, there is no virtue in the term "reorganization" unless something salutary is accomplished thereby.

Mr. CAIN. The Senator from Washington can only guess, but he thinks that some well-intentioned agents within the executive branch thought that because "Fannie May" had something to do with housing that it ought logically enough to be associated with the Housing and Home Finance Agency. But the Senator from Washington hopes that he made one of his points clear that "Fannie May" is essentially a credit and not a housing activity.

Mr. FERGUSON. Mr. President, will the Senator yield?

Mr. CAIN. I yield.

Mr. FERGUSON. As one of those who voted against the transfer of the RFC to the Commerce Department I should like to ask the Senator a question. Does the testimony show that the proposed plan was made on the basis that the President anticipated that the Reconstruction Finance Corporation's activities would be transferred to the Commrce Department and that then "Fannie May" being only a loaning agency of the RFC, should be transferred to some other department and not transferred to the Commerce Department?

Mr. CAIN. I am not qualified to answer the question just asked by the Senator from Michigan; but logic impels me to say that inasmuch as a few minutes ago the Senate decided to leave the RFC where it is until the so-called Fulbright investigating subcommittee has made recommendations to the Banking and Currency Committee, and eventually to the Senate itself, it follows in sequence that we should leave "Fannie May" where it is; namely, as an agency of the Reconstruction Finance Corporation.

Mr. FERGUSON. Mr. President, will the Senator yield for a further question?

Mr. CAIN. I shall be glad to yield, and to answer the question if time permits.

Mr. FERGUSON. The recommendation of the committee is not either for or against the transfer. Does the Senator care to state to the Senate the number of members of the committee who favored the transfer and the number of members of the committee who opposed the transfer?

Mr. CAIN. I am not a member of the committee; therefore, I do not know how its individual members voted.

However, in a sentence, this is what the committee gave the Senate to ponder over; again I read from page 5:

> The lifting of this going concern—
>
> Namely, "Fannie May"—
>
> from the location which it has occupied since its inception can scarcely be expected to produce administrative economy and efficiency, although it is admitted that its administration might be as effectively conducted by corresponding officials of HHFA.

I should like to say that I think we presently have no right to take an unnecessary risk, when one of our committees says that the best we could look forward to would be that "Fannie May" might be as effectively administered by the Housing and Home Finance Agency in the future as it is presently being managed by the Reconstruction Finance Corporation.

The VICE PRESIDENT. The Senator's time has expired.

AUTHORIZATION FOR APPROPRIATIONS COMMITTEE TO SUBMIT REPORT DURING RECESS OF THE SENATE

Mr. McKELLAR. Mr. President, I ask unanimous consent that the Appropriations Committee, if it reaches a conclusion of its consideration of the omnibus appropriation bill—H. R. 7786—between now and the time when the Senate reconvenes on Monday, may make its report in the interim period.

The VICE PRESIDENT. Without objection, it is so ordered.

MARSHALL PLAN OF IDEAS

Mr. BENTON. Mr. President——

Mr. MYERS. Mr. President, I yield 5 minutes to the Senator from Connecticut.

Mr. BENTON. Mr. President, yesterday Ambassador John Foster Dulles, who has just returned from Korea, concluded his testimony before the Thomas subcommittee of the Senate Foreign Relations Committee—which is holding hearings on my resolution, Senate Resolution 243—with the following powerful

tions. That bill contains suggestions for the composition of a commission that seem to fit the situation that confronts us.

Mr. BENTON. Mr. President, I also ask unanimous consent to have printed in the RECORD statements made before the Thomas subcommittee of the Senate Foreign Relations Committee by the Senator from New York [Mr. LEHMAN] and the Senator from Vermont [Mr. FLANDERS], 2 of the 13 sponsors of Senate Resolution 243.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR LEHMAN

A few months ago the resolution which I am supporting here today was introduced in the Senate by my colleague, Senator BENTON, in behalf of a number of Senators of whom I had the honor to be one. The text of this resolution was embodied in a speech by Senator BENTON which was prophetically entitled "The Struggle for the Minds and Loyalties of Mankind."

It was, of course, impossible to foresee on that day that a military phase of the world struggle was so soon to involve the United States; that within a few short months our armed forces would be compelled to hasten to a distant corner of the world where the struggle between freedom and tyranny had so unexpectedly burst into open, armed conflict.

Mr. Chairman, it is my deep personal conviction that the six simple proposals set forth in this resolution, if they are approved and carried out, will have a most important bearing on the outcome of the conflict to which Senator BENTON referred 3 months ago, and of which the present operation in Korea is a part.

We are now working against time in all parts of the world. It is impossible to prophesy where the aggressor will strike next as he probes for the soft spots in the non-Soviet world. The contest to win men to ideals of freedom, peace, and justice has reached a stage of crisis. We must strive with the greatest speed and determination to mobilize the moral resources of all nations and all peoples as we prepare for the next phase of the struggle.

I am not pessimistic about the outcome. I am greatly gratified at the steps which have been already taken.

I believe that free nations, on the initiative of the United States, have followed the only possible course.

I have faith that mankind will rally to the side of those who demonstrate a positive faith in human and individual values and in the rights of peoples to work out their destinies in peace and security.

But armed might alone cannot speak for democracy.

We cannot run the risk of having peoples throughout the earth remain in ignorance of our democratic ideals and of our objectives, or be deceived by the devious propaganda of the Soviet Union and its satellites.

I have studied this resolution carefully with a view to determining whether any of its provisions should be eliminated or modified to meet the new conditions which have arisen from the Korean crisis. I have concluded that quite the contrary is true; that the words of the resolution have taken on a much deeper meaning in the light of recent events. The resolution, would, in my opinion, constitute a foreceful recommendation by Congress to amplify the voice of democracy so that it may reach those who are shut off from the free world and bring hope and reassurance to those who are joined in struggle to insure the survival of that world.

The basic structure of a Marshall plan of ideas is here in this resolution. It offers six practical ways by which this Nation and other free peoples can, with speed and effectiveness, counter the concerted efforts of the Soviet Union—concealing its imperialistic motives—to win over to its side the allegiance of large sections of mankind.

Mr. Chairman, I respectfully urge immediate approval of this resolution both by this committee and by both Houses of Congress. Furthermore, it is my hope, once Congress resolves that these important steps be taken, that the resolution will be speedily implemented by the necessary appropriations and administrative action.

STATEMENT BY SENATOR FLANDERS

Mr. Chairman, I wish to speak briefly in support of Senate Resolution 243 which proposes to expand and intesify the "program of information and education among the peoples of the world, with a view to closing the mental gulf that separates the United States from other peoples and blockades the universal hope for freedom and peace."

I would first like to call attention to the fact that Russia has made her most dangerous advances by the subversion of men's minds and loyalties. While it is true that she has had her military strength in the background, the actual work of conquest has been by psychological means. She came painfully close to winning western Europe by this means alone. The conquest of China could not been achieved by arms alone. The subversion of southeastern Asia, aside from Indochina, is undertaken by unaided propaganda. A minor expenditure and a major effort in this field is an essential for achieving peace and world order. This cannot be obtained by arms alone. Russia has known this from the beginning. We are only just now awakening to the facts of life.

This contest of tyranny against freedom extends the world over. It does not involve commitment to armed action the world over and our commitments for such action will be greatly diminished if we place the degree of dependents on spiritual and psychological means which wisdom and experience would suggest.

It will be useful to survey the whole field of action in this war of tyranny against freedom. Such a survey shows that there are approximately 750,000,000 people living in competitive freedom and outside of the major assault on freedom by the Russian Government. This includes western Europe, Africa, North and South America. Of course this area is not entirely free and new spots of trouble are breaking out, particularly in Central and South America. The freedom is relative.

There is a second area of about the same proportion, 750,000,000, which is the active missionary field of the Politburo. Here they are working with propaganda and subversive influences rather than by force of arms and only such action as is called for in this resolution can be of any effect against their continued progress. This area is southern and southeastern Asia.

The third area is that inside the curtain, which again has the population of about 750,000,000. This great area can be subdivided into three groups—the satellites, the Russian people, and the small group of Politburo members and the organization which they head and control.

Of these three great areas of the world this resolution would be properly directed toward the support of freedom in the missionary areas. Russia has been winning here by default. A hundred converts to communism are made in India, Pakistan, and Indonesia to one that is made to the cause of freedom. In India, for instance, there is, practically speaking, no literature on our side available to students of secondary schools, colleges, and universities. The book shelves and reading tables are loaded with Communist literature. Communist speakers are to be found everywhere. Experience with the round-the-world trip of the Town Meeting of the Air indicates that American speakers drawn from among our colored citizens would be highly acceptable and tremendously useful.

Furthermore, it is going to take something more than arms to safeguard Indochina, which is our dike against the southward spread of communism. The contest there must be carried on in such a way that the armies fighting on our side are welcomed by the inhabitants. The Communist armies of China succeeded in making themselves welcomed by the Chinese farmers. We have a very difficult task indeed to accomplish the same result in Indochina. Arms, armament, and warfare are necessary but it has to be said again and again that no military action can do the job if men's hearts and minds in this area are disaffected. One of the immediate possibilities is the furnishing of the simple and ordinary everyday medicines in all the areas to which the French and Viet Nam armies gain access. Means must be found to make the inhabitants glad when these areas are expanded.

This, of course, involves serious consultation between ourselves, the French, and the government of Bao Dai on the subject of the welfare of the Indonesians themselves. Should the French endeavor to reconstitute this country as an easy source of wealth, they will find instead that it is a bottomless pit into which they must pour treasures of money and the lives of their soldiers. They must learn and we must insist that they learn the lessons which have been learned by the English and the Dutch. Should they learn these lessons, there is the opportunity for the old connection between France and Indochina to develop into something more stable, and also to the advantage of both countries. This is a little outside the immediate purpose of this resolution, but nevertheless it is connected with it.

We have finally to relay messages of wisdom and hope to the subject peoples of the satellite states. Wisdom is needed in view of the precarious position in which these patriotic nationals find themselves. Paragraph No. 6 is of especial importance here. This reads:

"Encouragement of the establishment of a nongovernmental agency to help inspire and guide the efforts of the millions of private American citizens who might use their talents and resources and contacts overseas in furtherance of the programs and objectives of this resolution."

As is well known, undertakings of this sort have already been initiated by a private organization known as the National Committee for Free Europe. It deserves public and private support.

Wisdom in broadcasting to satellites does not need to be all deadly dull. There is a dangerously humorous aspect to the Russian contention that we have been raining potato bugs on east Prussia. The humor is obvious to us, but the danger lies in the near parallel between the accusation and the horrors of biological warfare.

Why should not this accusation bring from us an offer to donate free of charge X tons of DDT to potato growers of east Prussia? This chemical not only killed the bugs in Aroostock County, Maine, but it likewise destroyed other parasites and hindered the spread of most diseases the potato plant is afflicted with.

We have nothing but good wishes and good will for the people of east Germany. Why not express it in this lighthearted and practical way. Undertakings of this sort should be part and parcel of the measures to be undertaken under Senate Resolution 243.

Finally, we must have more faith in the results of reaching the Russian people themselves and must be ingenious and effective in the means we use. The Voice of America must have the same intensity of technical study that was given to radar, for instance, during World War II. A spirit of optimism

with regard to the difficulties introduced by Russian jamming will surely lead to means for overcoming it. If it does not, then all the history of the successful application of science to a desperate human emergency ends in failure for the first time.

We must never forget that the Russian people do not want war. We must find not only old means but new means for letting them know that the American people do not want war. Day and night, month in and month out, year in and year out, this message must be beamed to them in some way.

Programs of the sort contemplated by Senate Resolution 243 constitute in my mind the bone and sinew of any total diplomacy. Our diplomacy is not total if it watches nation after nation taken over by subtle Communist propaganda without effective counteraction on our part and if that diplomacy only comes into play at a stage when it is too late to be effective and when, perhaps, the only remaining resort is to arms.

Mr. BENTON. Mr. President, if General Marshall, General Eisenhower, and Ambassador Dulles had prepared statements to deliver before the committee, I would also ask unanimous consent to have them printed at this point in the RECORD.

I urge upon the Senate the immediate and continuous consideration of the evidence being presented before the Thomas subcommittee of the Foreign Relations Committee. No hearings could be more timely. Indeed, as these eminent witnesses have pointed out, and as Ambassador Dulles has said, the decisions reached within the next few weeks by the Congress in this area of our foreign policy may determine the fate of our country and of the free world.

REORGANIZATION PLAN NO. 22 OF 1950

The Senate resumed the consideration of the resolution (S. Res. 299) providing for the transfer of the Federal National Mortgage Association from the Reconstruction Finance Corporation to the Housing and Home Finance Agency.

Mr. MYERS. Mr. President, I yield 5 minutes, or so much time as he may desire, to the Senator from Alabama [Mr. SPARKMAN].

The VICE PRESIDENT. The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, I do not wish to take very much of the time of the Senate in discussing this reorganization plan this afternoon; but I am in favor of the reorganization plan, and I am opposed to the pending resolution of disapproval.

There are several things which I wish to call to the attention of the Senate. The first is the fact that this reorganization plan is completely in conformance with the recommendation of the Hoover Commission and its report.

Second, on two different occasions the Senate itself has passed bills transferring "Fannie May" to the Housing and Home Finance Agency.

Mr. FERGUSON. Mr. President, will the Senator yield at this point for a question?

Mr. SPARKMAN. I yield.

Mr. FERGUSON. Did the Senate also recommend the abolishment of this agency? Will the Senator explain that?

Mr. SPARKMAN. Yes. In the early part of the Eightieth Congress there was a recommendation that "Fannie May" be abolished. However, a little later in the same Congress, when the situation became acute with reference to GI loans, the same Congress renewed "Fannie May," and passed a bill in the nature of an amendment transferring "Fannie May" to the Housing and Home Finance Agency.

Mr. FERGUSON. Mr. President, will the Senator yield for a further question?

Mr. SPARKMAN. I yield.

Mr. FERGUSON. Did the Hoover Commission recommend the abolishment of "Fannie May"?

Mr. SPARKMAN. No; it did not.

Mr. FERGUSON. It seems to me we might think so, judging by the way the task force report reads.

Mr. SPARKMAN. One part of the report of the task force recommended the abolishment of "Fannie May" and the handling of the loans through the Home Loan Bank Board. However, the Hoover Commission itself recommended the transfer of "Fannie May" to the Housing and Home Finance Agency.

Mr. FERGUSON. I thank the Senator.

Mr. SPARKMAN. What I have just stated is correct.

Mr. President, I should like to call the attention of the distinguished senior Senator from Ohio [Mr. TAFT] to the fact that back in, I believe it was, the Seventy-ninth Congress, the so-called Taft subcommittee recommended the transfer.

In the Eightieth Congress, the Joint Committee on Housing recommended the transfer; and on two different occasions the Senate itself passed a bill providing for the transfer. However, that proposal was not agreed to by the other branch of the Congress and was dropped in conference.

Mr. CAIN. Mr. President, will the Senator yield for a brief question?

Mr. SPARKMAN. I yield.

Mr. CAIN. Does not the Senator agree that at the times when it was recommended that "Fannie May" be transferred to the Housing and Home Finance Agency, most of the mortgage commitments of "Fannie May" were FHA, rather than VA?

Mr. SPARKMAN. No; I do not think that is true at all. I do not think that was true in 1948. It may have been true in 1945, in the earlier period.

Mr. CAIN. Yes.

Mr. SPARKMAN. But it was not true in 1948 and it was not true when the Joint Committee on Housing, of which the Senator from Washington was a member, made a unanimous recommendation to the effect that it be transferred to the Housing and Home Finance Agency.

Mr. CAIN. Does the Senator from Alabama agree that today the ratio is about 6 to 1, in FNMA, in favor of VA mortgage payments?

Mr. SPARKMAN. Yes. Its primary purpose is handling——

Mr. CAIN. VA payments?

Mr. SPARKMAN. GI home mortgages; that is true.

Mr. CAIN. Is it not true that the Veterans' Administration in its mortgage operations has no connection of any kind with the Housing and Home Finance Agency?

Mr. SPARKMAN. It has as much connection with it as it has with the Reconstruction Finance Corporation. I do not think there is any difference so far as the connection there is concerned.

Mr. CAIN. That is correct.

Mr. SPARKMAN. I appreciate what the Senator from Washington is apparently arguing—the opposition of certain veterans and veterans' organizations to the transfer, based however, upon the fear that this may be the opening wedge for the transfer of the complete housing program from the Veterans' Administration. But I may say to the Senator from Washington and to the Senate that the subcommittee on housing, of which I am chairman, has definitely reached the conclusion not to recommend under any conditions the transfer of the veterans' housing program from the Veterans' Administration, and that this plan has no connection with it whatever. I may say that if I felt that this was a forerunner of the other, I would not support it. But I know definitely that it is not, and that it has no connection with it.

Mr. CAIN. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. CAIN. The Senator from Washington does not wish to obstruct the comments being made by the Senator from Alabama, but he knows that everyone is interested in determining what benefits can be expected from the proposed transfer, when the committee which reported the plan to the Senate without recommendation said in its report that nothing more favorable in the future could be expected from the transfer than that which was actually taking place today.

Mr. SPARKMAN. Yes. I am trying to comment very briefly on that, because I do not want to prolong the discussion. But let me say first that when the Federal National Mortgage Association was originally created by an act of Congress, it was provided that it should be set up by the Housing Administrator. The Congress originally placed it in housing. It was the Housing Administrator who asked the RFC to handle this activity for Housing. Under the law as it stands today, the Housing Administrator can terminate FNMA. In other words, everything Congress has ever done about FNMA has shown its intent to tie it up directly with the housing program. Its function is not that of RFC, which is to lend money. Its function is to help the housing program. In order to do that the Congress has authorized FNMA to use $2,750,000,000 for the purpose of purchasing mortgages, as a secondary market.

Mr. CAIN. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. CAIN. I desire to ask the Senator whether the mortgage market has ever been healthier than it is today under FNMA as a part of the Reconstruction Finance Corporation?

Mr. SPARKMAN. Probably not; but I do not believe it was the activity of FNMA that made the market healthier. I am not critical of RFC, and I am not critical of FNMA. There have been some things which I think should have been handled differently from the way they were han-

dled, but I say that as a whole they have done a very good job, and today they are doing a very good job. They are selling the mortgages now at the rate of about $19,000,000 a week. But it is not, today, so closely related to the housing program as it ought to be.

Mr. CAIN. Mr. President, if the Senator will permit, I should like to say that the Senator from Georgia and the Senator from Washington are largely in opposition to the reorganization plan because we cannot see any benefits to be derived from the transfer. Against that observation I should like to ask one last question, and I appreciate the willingness of the Senator to yield. We are told, and it appears to be a fact, that FNMA is now administered by agents of the RFC throughout the country, in the 31 branch offices, the heads of which in a sense wear two hats. They administer effectively their FNMA responsibilities, while doing their important work for the RFC. Does it not therefore follow that if a transfer is approved, an entirely new group of administrators and processors must be collected from somewhere and trained in order to provide, under Housing and Home Finance Agency, the same degree of effectiveness and efficiency we are presently getting under RFC.

Mr. SPARKMAN. Mr. Foley testified before the committee that the Budget Bureau had been working with his organization and with RFC for some time, to prepare a plan whereby that would be taken care of. As a matter of fact, people think of FNMA as being a great big organization. Here in Washington there are but 12 employees of FNMA, and nearly all the work is done by regular employees of RFC, who handle these activities. There is no reason why the same employees in Housing cannot do exactly the same thing, and we have throughout the country just as many housing offices—perhaps more—than we have RFC offices.

Mr. CAIN. But those of us who are opposing this plan understand that no reorganization plan should be adopted unless it provides a promise of a 25-percent increase in efficiency and reduction in administrative costs. Does the Senator from Alabama suggest to us that administrative costs will be reduced if the transfer is effected—not 25 percent, but will they be reduced by one single penny?

Mr. SPARKMAN. I must say the Senator has advanced a new thought to me. I did not know that the rule had been laid down anywhere that there had to be a 25-percent increase in efficiency and a 25-percent reduction in costs. I do know that reorganization is for the purpose of making the Government more efficient and for the purpose of providing for economy. I also know that the Hoover Commission itself pointed out, and Mr. Hoover recently in a speech said, that economies do not come as the result of the individual reorganization plans, they do not come, necessarily, immediately following reorganization. It is the increase in efficiency which brings about the economy; and I think that that is certainly true in the present case.

Mr. ROBERTSON. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. ROBERTSON. According to the committee report, the administrative work of FNMA is being done by employees of RFC. Does the Senator from Alabama think that the agency to which it will be transferred will absorb those duties, and that it will necessitate a large increase in peronnel in order to handle it?

Mr. SPARKMAN. No; I do not think it will call for new personnel. As I pointed out a few moments ago, here in Washington there are only 12 employees in FNMA. There are a great many other employees throughout the country, employees of RFC, who handle the FNMA duties along with their other duties. I certainly understood that that same kind of arrangement would be worked out so far as the Housing and Home Finance Agency is concerned.

Mr. ROBERTSON. Then does the Senator think it involves new and additional expense?

Mr. SPARKMAN. No, not at all.

Mr. ROBERTSON. Is it a fact that the Hoover Commission was unanimous in making this recommendation?

Mr. SPARKMAN. That is my understanding, that it is in complete conformance with the Hoover Commission recommendation.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. HOLLAND. In connection with the point just made so ably by the Senator, that increased efficiency will result, I should like to ask the Senator whether it is not true that, as now set up, the foreclosure of FNMA mortgages must take place in RFC, through the handling by the RFC staff, but that the physical properties, when taken after foreclosure, must then be reconveyed to another agency in Housing, and either rented or reconditioned or sold; and certainly handled and disposed of as a part of the housing program, thus making it necessary for the actual handling and liquidation of those properties to be under a completely different agency from that which, under the present law, must do the foreclosing and the acquiring of titles to those properties?

Mr. SPARKMAN. According to my understanding, the Senator is exactly correct. The Housing and Home Finance Agency handles the properties in those cases. The RFC or FNMA simply handles the mortgage financing part of it.

Mr. HOLLAND. Mr. President, will the Senator yield for a further question?

Mr. SPARKMAN. I yield.

Mr. HOLLAND. Does not the Senator think that it is much more simple and much more effective to have the foreclosure and the reconditioning and the renting and the resale all in the same agency that does the repossessing under the foreclosure, and that simplification as well as economy, together with the housing of all this activity under one great agency, the Housing Agency, will result from the adoption of this reorganization plan?

Mr. SPARKMAN. I certainly do, and I believe it was that which prompted the Hoover Commission to make its report. As I see it, the thing that we need to keep in mind is that FNMA belongs inherently to Housing in order to help in the development of the housing program, and not to the RFC and its lending functions.

Mr. CAIN. Mr. President, will the Senator yield?

Mr. HOLLAND. Mr. President, will the Senator yield for one more observation on this point?

Mr. SPARKMAN. I yield to the Senator from Florida.

Mr. HOLLAND. As the Senator well knows, under the present program FNMA acquires the mortgages by affording a secondary market for them, and in the case of Alaska loans it makes direct loans and acquires the mortgages from the original builders. In the case of the present operation, foreclosures, therefore, have to be by FNMA, which means that it is under the direction of RFC. At the same time, as the Senator knows, the insurance of those loans is through the Federal Housing Administration, so that after foreclosure is completed the title to the retaken houses, whether it arises under original loans made in the case of Alaska, or purchased loans, as in the case of ordinary operations, is taken not in the agency which insures the loan, but in a completely different one. Is not that correct?

Mr. SPARKMAN. That is my understanding.

Mr. HOLLAND. And that after the recapture of title in that way by a governmental agency, is it not true that it will be necessary for that governmental agency to negotiate the transfer of the title to a completely separate agency and through a completely separate process before the agency which is charged with the final liquidation of the loans can conduct and complete its business?

Mr. SPARKMAN. All of which goes to point up the fact that this is primarily a housing function, and it should be kept in one place. That is what the plan proposes to do.

Mr. HOLLAND. If the Senator from Alabama will yield further, is it his position in connection with this specific point that a much simpler arrangement, a much more efficient arrangement, and, in the long run, a much more economical arrangement, will be placed in effect by having the foreclosure in the same agency which has to handle the liquidation and disposal of property?

Mr. SPARKMAN. I think that is correct.

I should like to point out one other thing with reference to economy and efficiency in operation. Last October the Congress voted to FNMA additional authority to the extent of $1,000,000,000. It was our thought that that amount would last a year, but, instead, we were told in March that FNMA was running out of money, and in the month of March, if I recall correctly, there was more than $400,000,000 committed by FNMA. Everyone knows that we simply cannot supply money out of the Treasury of the United States that rapidly. I think that if at that time FNMA had been in the Housing Administration, a much more realistic policy would have been followed. It would have been geared to the housing program and

would have been conducted in such a manner as to take care, in an orderly way, of the mortgages which needed a secondary market. Instead, it was converted into a primary market.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. GEORGE. I should like to know how the GI's would have gotten loans to build houses?

Mr. SPARKMAN. I will tell the Senator how they would have gotten them. A person who wanted to build a section 603 apartment house went to FNMA and made a commitment that in the future, 12 or 18 months from that time, when the apartment house was built, he would buy the mortgages. The result was that in a month's time $400,000,000 was used up, and the GI who wanted to build a small individual house in some rural town in Georgia, for instance, where there were no banking facilities and lending agencies available to him, found he could not finance the building of his home. It was the big multi-million-dollar project that was being financed through FNMA as a primary market and not as a secondary market.

Mr. GEORGE. Does not the Senator know that those houses were for GI occupancy?

Mr. SPARKMAN. Yes.

Mr. GEORGE. But it was impossible for the GI to finance his home except through FNMA.

Mr. SPARKMAN. I know that when FNMA was originally established it was intended as a secondary market, and I know that in my own home town, for instance, many GI's came to me in the fall of 1947, when FNMA had run out of money and when it was not operating effectively, and they could not obtain loans. That was the reason why in 1948 we gave new life to FNMA by providing it with more money, so that the GI's could get their loans. But instead of operating it as a secondary market, those in charge made it virtually a primary market, and said to the people who were building great multi-million-dollar projects, "We will give you commitments which will not become effective for from 12 to 18 months." The result was that the small-town GI who was building his own individual home, or the man who wanted to build a dozen individual homes for GI's, was not able to get any help from FNMA because the funds had been committed for a year or 18 months in advance; and today there stand on the books of FNMA more than a billion dollars of outstanding commitments.

Mr. CAIN. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. CAIN. The Senator from Washington considers the Senator from Alabama to be one of the best informed Members of this body on housing, but he has discovered his friend from Alabama in, I think, a serious mistake. The opinion seems to be that FNMA forecloses mortgages. FNMA does no such thing. If a mortgage gets into trouble, it is referred to the RFC or——

Mr. SPARKMAN. I may say that, of course, the Senator from Washington is correct; but I do not see any great variance in what I have said and what the Senator from Florida [Mr. HOLLAND] said. It does not make any difference whether FNMA makes the foreclosure; it makes the determination if foreclosure is necessary. FNMA, of course, should not be holding the mortgage; it should be transferring mortgages and selling them on the open market as rapdily as possible. But we found in the portfolio more than a billion dollars worth of mortgages held. The result is that the Federal Government has $2,750,000,000 tied up in the revolving fund, and there is before us today a request for $250,000,000 additional.

I can tell the Senator how we can save some money in the fiscal year 1951. The Budget asks for $750,000,000 for FNMA. I am not certain that the agency needs that additional amount of money. I am confident that if we gear the operation of this secondary market to the housing program, instead of putting the revolving fund at $3,000,000,000 or $3,250,000,000, if we carry out the full amount budgeted for the present year, we can cut it down to $2,000,000,000, and thereby put back into the General Treasury of the United States a billion dollars now being used for FNMA. I think we can not only cut down the budget by $500,000,000, but we can return perhaps a billion dollars of the revolving fund to the Treasury.

Mr. CAIN. Mr. President, will the Senator permit me one further observation?

Mr. SPARKMAN. Yes.

Mr. CAIN. In 1945 the Congress passed and the President signed the Reorganization Act. Section 2, subsection (c) of that act required—and this is something with which the Senator from Alabama did not appear to be familiar——

Mr. SPARKMAN. I know what the requirement is.

Mr. CAIN. It required that there should be accomplished an over-all reduction of at least 25 percent of the administrative cost of the agency or agencies involved. I merely cite that because it appears to be a fact that the Senator from Alabama has at no time said that this proposed plan will result in the saving of a single penny, let alone 25 percent.

Mr. SPARKMAN. I do not understand that there is any requirement to the effect that the President must show it would save 25 percent, or any specific amount. In every plan which the President submits he makes a statement of his estimate of the budgetary saving. As former President Hoover has pointed out, in the case of many reorganization plans there would be no immediate savings in money, but the savings would come in increased efficiency in Government operation. I think that is largely true in this instance. I feel certain that we can save $500,000,000 on the 1951 budget by gearing this matter to the operation of our housing program, rather than operating it as a lending agency which makes loans for the purpose of earning a profit. I do not believe that is what it is intended to be. I believe it should be geared to the housing program and made to operate in cooperation with that program. I think the proposed transfer would bring that about.

The VICE PRESIDENT. The time of the Senator from Alabama has expired. All time for debate has expired. The question is on agreeing to the resolution.

Mr. MYERS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Hayden	Millikin
Anderson	Hendrickson	Morse
Benton	Hickenlooper	Mundt
Bricker	Hill	Murray
Bridges	Hoey	Myers
Butler	Holland	O'Mahoney
Byrd	Humphrey	Pepper
Cain	Hunt	Robertson
Capehart	Ives	Russell
Chavez	Jenner	Saltonstall
Connally	Johnson, Tex.	Schoeppel
Cordon	Kefauver	Smith, Maine
Donnell	Kem	Smith, N. J.
Douglas	Kerr	Sparkman
Dworshak	Kilgore	Stennis
Eastland	Knowland	Taft
Ecton	Langer	Thomas, Utah
Ellender	Leahy	Thye
Ferguson	Lehman	Watkins
Frear	Lodge	Wherry
Fulbright	McCarthy	Wiley
George	McClellan	Williams
Graham	McFarland	Young
Green	McKellar	
Gurney	McMahon	

The VICE PRESIDENT. A quorum is present.

The question is on agreeing to Senate Resolution 299.

Mr. MYERS and other Senators asked for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. MYERS. I announce that the Senator from Kentucky [Mr. CHAPMAN] and the Senator from Illinois [Mr. LUCAS] are absent on public business.

The Senator from California [Mr. DOWNEY] is absent because of illness.

The Senator from Colorado [Mr. JOHNSON], the Senators from South Carolina [Mr. JOHNSTON and Mr. MAYBANK], the Senator from Louisiana [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], the Senator from Nevada [Mr. MCCARRAN], the Senator from Idaho [Mr. TAYLOR], the Senator from Oklahoma [Mr. THOMAS], and the Senator from Kentucky [Mr. WITHERS] are absent by leave of the Senate.

The Senator from Iowa [Mr. GILLETTE], the Senator from West Virginia [Mr. NEELY], and the Senator from Maryland [Mr. TYDINGS] are necessarily absent.

The Senator from Maryland [Mr. O'CONOR] is absent by leave of the Senate on official business, attending the sessions of the International Labor Organization at Geneva, Switzerland, as a delegate representing the United States.

The Senator from Nevada [Mr. MCCARRAN] is paired on this vote with the Senator from New Hampshire [Mr. TOBEY]. If present and voting, the Senator from Nevada would vote "yea," and the Senator from New Hampshire would vote "nay."

I announce further that if present and voting, the Senator from Iowa [Mr. GILLETTE], the Senator from Illinois [Mr. LUCAS], and the Senator from Washington [Mr. MAGNUSON] would vote "nay."

Mr. SALTONSTALL. I announce that the Senator from New Hampshire [Mr. TOBEY] and the Senator from Michigan

[Mr. VANDENBERG] are absent by leave of the Senate.

The Senator from Nevada [Mr. MALONE] is absent on official business.

The Senator from Maine [Mr. BREWSTER], the Senator from Kansas [Mr. DARBY], the Senator from Vermont [Mr. FLANDERS], and the Senator from Pennsylvania [Mr. MARTIN] are detained on official business. If present and voting, the Senator from Vermont [Mr. FLANDERS] and the Senator from Kansas [Mr. DARBY] would each vote "nay."

The Senator from New Hampshire [Mr. TOBEY] is paired with the Senator from Nevada [Mr. MCCARRAN]. If present and voting, the Senator from New Hampshire would vote "nay," and the Senator from Nevada would vote "yea."

The yeas and nays resulted—yeas 30, nays 43, as follows:

YEAS—30

Bricker	Eastland	Millikin
Bridges	Ecton	Mundt
Butler	Ferguson	Pepper
Byrd	George	Russell
Cain	Gurney	Saltonstall
Capehart	Hendrickson	Taft
Connally	Hickenlooper	Thye
Cordon	Jenner	Wherry
Donnell	Kem	Wiley
Dworshak	McClellan	Young

NAYS—43

Aiken	Hunt	Morse
Anderson	Ives	Murray
Benton	Johnson, Tex.	Myers
Chavez	Kefauver	O'Mahoney
Douglas	Kerr	Robertson
Ellender	Kilgore	Schoeppel
Frear	Knowland	Smith, Maine
Fulbright	Langer	Smith, N. J.
Graham	Leahy	Sparkman
Green	Lehman	Stennis
Hayden	Lodge	Thomas, Utah
Hill	McCarthy	Watkins
Hoey	McFarland	Williams
Holland	McKellar	
Humphrey	McMahon	

NOT VOTING—23

Brewster	Long	O'Conor
Chapman	Lucas	Taylor
Darby	McCarran	Thomas, Okla.
Downey	Magnuson	Tobey
Flanders	Malone	Tydings
Gillette	Martin	Vandenberg
Johnson, Colo.	Maybank	Withers
Johnston, S. C.	Neely	

The VICE PRESIDENT. On this vote the yeas are 30, the nays are 43; 49 votes not having been cast in the affirmative, the resolution is rejected.

EXECUTIVE SESSION

Mr. MYERS. Mr. President, it is my purpose to ask that the Senate proceed to the consideration of executive business, and after the completion of executive business, to return to legislative session in order that several speeches can be made, and there can be some insertions in the RECORD.

Therefore, Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE REPORTS OF A COMMITTEE

The following favorable reports of nominations were submitted:

By Mr. KEFAUVER, from the Committee on Armed Services:

Lt. Gen. Clarence Ralph Huebner, deputy commander in chief, United States zone, Germany, and commanding general, United States Army, Europe (major general, United States Army), to be placed on the retired list in the grade of lieutenant general;

Lt. Gen. Manton Sprague Eddy (major general, United States Army) to be commanding general, United States Army, Europe, with the rank of lieutenant general;

Maj. Gen. Stafford LeRoy Irwin, United States Army, to be commanding general, United States Forces, Austria, with the rank of lieutenant general;

Maj. Gen. Joseph May Swing, United States Army, to be commandant, the Army War College, with the rank of lieutenant general;

Maj. Gen. Frank William Milburn, United States Army, to be commanding general, V Corps, with the rank of lieutenant general;

Maj. Gen. James Kirk, and sundry other officers of the Army of the United States, for appointment in the Regular Army of the United States;

Armen Bogosian and sundry other persons for appointment in the Regular Army of the United States;

Capt. Arleigh A. Burke, United States Navy, for temporary appointment to the grade of rear admiral;

Charles A. Baldwin, and several other officers, for appointment in the Navy; and

Maj. Gen. Thomas E. Watson, United States Marine Corps, to have the grade of lieutenant general on the retired list in the Marine Corps effective from the date of his retirement.

EXECUTIVE MESSAGE REFERRED

The VICE PRESIDENT laid before the Senate a message from the President of the United States submitting sundry nominations, which were referred to the Committee on Post Office and Civil Service.

(For nominations this day received, see the end of Senate proceedings.)

PROTOCOL PROLONGING THE INTERNATIONAL AGREEMENT REGARDING THE REGULATION OF PRODUCTION AND MARKETING OF SUGAR

Mr. THOMAS of Utah. Mr. President, there are on the executive calendar several minor treaties which have been reported from the Senate Committee on Foreign Relations. All of them are treaties which are renewals of present methods in which the Government is functioning, or they refer to treaties entered into to which we are a party as a member of the United Nations.

The first one is a treaty which calls for the renewal of the International Sugar Agreement. I ask that it be considered.

The Senate, as in Committee of the Whole, proceeded to consider the protocol (Executive G, 81st Cong., 2d sess)., a protocol prolonging for 1 year after August 31, 1949, the International Agreement Regarding the Regulation of Production and Marketing of Sugar, signed at London on May 6, 1937, which was read the second time, as follows:

PROTOCOL

Whereas an International Agreement regarding the Regulation of the Production and Marketing of Sugar (hereinafter referred to as "the Agreement") was signed in London on 6th May, 1937;

And whereas by a Protocol signed in London on 22nd July, 1942, the Agreement was regarded as having come into force on 1st September, 1937, in respect of the Governments signatory of the Protocol;

And whereas it was provided in the said Protocol that the Agreement should continue in force between the said Governments for a period of two years after 31st August, 1942;

And whereas by further Protocols signed in London on 31st August, 1944, 31st August, 1945, 30th August, 1946, 29th August, 1947, and 31st August, 1948, it was agreed that, subject to the provisions of Article 2 of the said Protocols, the Agreement should continue in force between the Governments signatory thereof for periods of one year terminating on 31st August, 1945, 31st August, 1946, 31st August, 1947, 31st August, 1948, and 31st August, 1949, respectively;

Now, therefore, the Governments signatory of the present Protocol, considering that it is expedient that the Agreement should be prolonged for a further term as between themselves, subject, in view of the present situation, to the conditions stated below, have agreed as follows:—

ARTICLE 1

Subject to the provisions of Article 2 hereof, the Agreement shall continue in force between the Governments signatory of this Protocol for a period of one year after 31st of August, 1949.

ARTICLE 2

During the period specified in Article 1 above the provisions of Chapters III, IV, and V of the Agreement shall be inoperative.

ARTICLE 3

1. The Governments signatory of the present Protocol recognise that revision of the Agreement is necessary and should be undertaken as soon as the time appears opportune. Discussion of any such revision should take the existing Agreement as the starting-point.

2. In the event of an agreement based on such revision coming into force before 31st August, 1950, the present Protocol shall thereupon terminate.

3. For the purposes of such revision due account shall be taken of any general principles of commodity policy embodied in any agreements which may be concluded under the auspices of the United Nations.

ARTICLE 4

Before the conclusion of the period of one year specified in Article 1, the contracting Governments, if the steps contemplated in Article 3 have not been taken, will discuss the question of a further renewal of the agreement.

ARTICLE 5

The present protocol shall bear the date 31st August, 1949, and shall remain open for signature until 30th September, 1949, provided, however, that any signatures appended after 31st August, 1949, shall be deemed to have effect as from that date.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed the present Protocol.

Done in London on the 31st day of August, 1949, in a single copy which shall be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, and of which certified copies shall be furnished to the signatory Governments.

For the Government of the Union of South Africa:

LEIF EGELAND.

For the Government of the Commonwealth of Australia:

NORMAN R. MIGHELL.

For the Government of Belgium:

G. WALRAVENS.

For the Government of Brazil:

MONIZ DE ARAGÃO.

For the Government of Cuba:

ROBERTO DE MENDOZA.

(Subject to a reservation that the Republic of Cuba will have the right to withdraw from the Agreement at any time, giving notice to the Government of the United Kingdom, as depository of the Protocol, of the intention to withdraw ninety days in advance.—R. de M.)

For the Government of Czechoslovakia:
D. RUDOLF BYSTRICKY.
For the Government of the Dominican Republic:
JULIO VEGA BATLLE.
For the Government of the French Republic:
F. ANDRÉ-HESSE.
For the Government of the United Kingdom of Great Britain and Northern Ireland:
WILLIAM STRANG.
For the Government of Hayti:
FRED. DUVIGNEAUD.
For the Government of the Netherlands:
A. BENTINCK.
For the Government of Peru:
RICARDO RIVERA SCHREIBER.
For the Government of the Republic of the Philippines:
JOSÉ F. IMPERIAL.
For the Government of Poland:
JOZEF SAPER.
For the Government of Portugal:
MIGUEL D'ALMEIDA PILE.
For the Government of the United States of America:
J. C. HOLMES.
Subject to ratification.
For the Government of the Federal People's Republic of Yugoslavia:
KOS. ERIH
Certified a true copy.
[SEAL] S. H. GELLATLY
Deputy Librarian and Keeper of the Papers for the Secretary of State for Foreign Affairs.

Mr. THOMAS of Utah. Mr. President, the purpose of renewing this treaty is merely to keep it alive. At the present time members of the Sugar Board are meeting in London attempting to bring about additional arrangements so that the treaty may become effective on a postwar status. The treaty was first entered into in 1937. It has been kept alive, although inactive, for the purpose of keeping the Sugar Board alive.

Mr. President, there is no opposition to the treaty and we think that we may have a report coming from the London conference now in session which will be constructive to the sugar industry.

The VICE PRESIDENT. The protocol is open to amendment. If there be no amendment to be proposed, the protocol will be reported to the Senate.

The protocol was reported to the Senate without amendment.

The VICE PRESIDENT. The resolution of ratification will be read.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive G, Eighty-first Congress, second session, the protocol dated in London August 31, 1949, prolonging for 1 year after August 31, 1949, the international agreement regarding the regulation of production and marketing of sugar, signed at London on May 6, 1937.

The VICE PRESIDENT. The question is on agreeing to the resolution of ratification. [Putting the question.] Two-thirds of the Senators present concurring therein, the resolution of ratification is agreed to, and the protocol is ratified.

PROTOCOL BRINGING UNDER INTERNATIONAL CONTROL DRUGS OUTSIDE THE SCOPE OF THE CONVENTION OF JULY 13, 1931, AS AMENDED

Mr. THOMAS of Utah. Mr. President, I suggest that the Senate now proceed with Executive H.

The Senate, as in Committee of the Whole, proceeded to consider the protocol (Executive H, 81st Cong., 1st sess.), a protocol opened for signature at Paris on November 19, 1948, and signed on behalf of the United States of America on that date, bringing under international control drugs outside the scope of the convention signed at Geneva July 13, 1931, as amended by the protocol signed at Lake Success December 11, 1946, limiting the manufacture and regulating the distribution of narcotic drugs, which was read the second time, as follows:

PROTOCOL BRINGING UNDER INTERNATIONAL CONTROL DRUGS OUTSIDE THE SCOPE OF THE CONVENTION OF 13 JULY 1931 FOR LIMITING THE MANUFACTURE AND REGULATING THE DISTRIBUTION OF NARCOTIC DRUGS, AS AMENDED BY THE PROTOCOL SIGNED AT LAKE SUCCESS ON 11 DECEMBER 1946

Preamble

The States Parties to the Present Protocol,

Considering that the progress of modern pharmacology and chemistry has resulted in the discovery of drugs, particularly synthetic drugs, capable of producing addiction, but not covered by the Convention of 13 July 1931 for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, as amended by the Protocol signed at Lake Success on 11 December 1946,

Desiring to supplement the provisions of that Convention and to place these drugs, including their preparations and compounds containing these drugs, under control in order to limit by international agreement their manufacture to the world's legitimate requirements for medical and scientific purposes and to regulate their distribution,

Realizing the importance of the universal application of this international agreement and of its earliest possible entry into force,

Have resolved to conclude a Protocol for that purpose and have agreed upon the following provisions:

CHAPTER I. CONTROL

Article 1

1. Any State Party to the present Protocol which considers that a drug which is or may be used for medical or scientific purposes and to which the Convention of 13 July 1931 does not apply, is liable to the same kind of abuse and productive of the same kind of harmful effects as the drugs specified in article 1, paragraph 2, of the said Convention, shall send a notification to that effect, with all material information in its possession, to the Secretary-General of the United Nations, who shall transmit it immediately to the other States Parties to the present Protocol, to the Commission on Narcotic Drugs of the Economic and Social Council and to the World Health Organization.

2. If the World Health Organization finds that the drug in question is capable of producing addiction or of conversion into a product capable of producing addiction, this Organization shall decide whether the drug shall fall:

(a) Under the regime laid down in the 1931 Convention for the drugs specified in article 1, paragraph 2, group I, of that Convention; or

(b) Under the regime laid down in the 1931 Convention for the drugs specified in article 1, paragraph 2, group II, of that Convention.

3. Any decision or finding in accordance with the preceding paragraphs shal be notified without delay to the Secretary-General of the United Nations, who shall transmit it immediately to all States Members of the United Nations, to non-member States Parties to this Protocol, to the Commission on Narcotic Drugs and the Permanent Central Board.

4. Upon receipt of the communications from the Secretary-General of the United Nations notifying a decision under paragraph 2 (a) or (b) above, the States Parties to this Protocol shall apply to the drug in question the appropriate regime laid down by the 1931 Convention.

Article 2

The Commission on Narcotic Drugs, upon receipt of the notification from the Secretary-General of the United Nations in accordance with paragraph 1 of article 1 of this Protocol, shall consider as soon as possible whether the measures applicable to drugs specified in article 1, paragraph 2, group I, of the 1931 Convention should provisionally apply to the drug in question, pending receipt of the decision or finding of the World Health Organization. If the Commission on Narcotic Drugs decides that such measures should provisionally apply, this decision shall be communicated without delay by the Secretary-General of the United Nations to the States Parties to this Protocol, the World Health Organization and the Permanent Central Board. The said measures shall thereupon be applied provisionally to the drug in question.

Article 3

Any decision or finding taken under article 1 or article 2 of this Protocol may be revised in the light of further experience, in accordance with the procedure provided in this chapter.

CHAPTER II. GENERAL PROVISIONS

Article 4

The present Protocol does not apply to raw opium, medicinal opium, coca leaf or Indian hemp as defined in article 1 of the International Convention relating to Dangerous Drugs signed at Geneva on 19 February 1925, or to prepared opium as defined in chapter II of the International Opium Convention signed at The Hague on 23 January 1912.

Article 5

1. The present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be open for signature or acceptance on behalf of any Member of the United Nations and also of any non-member State to which an invitation has been addressed by the Economic and Social Council.

2. Any such State may:

(a) Sign without reservation as to acceptance;

(b) Sign subject to acceptance and subsequently accept; or

(c) Accept.

Acceptance shall be effected by the deposit of a formal instrument with the Secretary-General of the United Nations.

Article 6

The present Protocol shall come into force upon the expiration of thirty days following the day on which twenty-five or more States have signed it without reservation, or accepted it in accordance with article 5, provided that such States shall include five of the following: China, Czechoslovakia, France, Netherlands, Poland, Switzerland, Turkey,

81ST CONGRESS
2D SESSION

S. RES. 299

IN THE SENATE OF THE UNITED STATES

JUNE 15 (legislative day, JUNE 7), 1950

Mr. GEORGE (for himself and Mr. CAIN) submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

JULY 5 (legislative day, JULY 1), 1950

Reported by Mr. MCCLELLAN, without recommendation

JULY 6 (legislative day, JULY 1), 1950

Considered and disagreed to

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 22 transmitted to Congress by the President on May 9, 1950.

81ST CONGRESS
2D SESSION

S. RES. 299

RESOLUTION

Disapproving Reorganization Plan Numbered 22 of 1950.

By Mr. GEORGE and Mr. CAIN

JUNE 15 (legislative day, JUNE 7), 1950
Referred to the Committee on Expenditures in the Executive Departments

JULY 5 (legislative day, JULY 1), 1950
Reported without recommendation

JULY 6 (legislative day, JULY 1), 1950
Considered and disagreed to

81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 589

REORGANIZATION PLAN NO. 24 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 24 OF 1950

MAY 9, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 24 of 1950, prepared in accordance with the Reorganization Act of 1949. The plan transfers the Reconstruction Finance Corporation to the Department of Commerce. The Corporation will continue to be administered by its Board of Directors and officers but subject to the supervision, coordination, and policy guidance of the Secretary of Commerce.

This reorganization plan is an important additional step in simplifying the organization of the executive branch of the Government and also in making more effective the various Government services to business. In my special message of May 5 to the Congress I stressed the necessity of assuring the most effective coordination of Government aids to small and independent businesses. For this reason I recommended that major responsibility for these programs be placed in the Secretary of Commerce. The need for such unified leadership and coordinated direction is no less essential with respect to our general business programs.

Both the business-loan program of the Reconstruction Finance Corporation and the various services to business provided by the Department of Commerce have the same major purpose—the development of American business and industry. Government aid to business may involve loans, loan insurance, economic and trade information, managerial and technical assistance, or a combination of several of these different types of services. If these various services are to be of the greatest benefit to the business community, unified supervision is necessary. Vesting supervision of the Corporation in the

Secretary of Commerce will promote consistent policies and coordinated administration for both the financial and nonfinancial services to business.

By grouping in one agency all the principal services to business, the plan follows a pattern of organization which has proved highly successful in the areas of agriculture and housing. Up to 1939 the Farm Credit Administration, the Commodity Credit Corporation, and the Rural Electrification Administration—all of them major agricultural financial programs—were outside the Department of Agriculture. Today, no major agricultural credit programs are outside the Department of Agriculture.

Similarly, most of the major housing programs, including those involving loans and insurance, have been grouped in the Housing and Home Finance Agency. Further, I am transmitting today Reorganization Plans Nos. 22 and 23 of 1950, which carry this policy forward by transferring the Federal National Mortgage Association and loans for factory-built homes to the housing agency.

Only in the business area do we still maintain organizational cleavage between the Government's financial and nonfinancial activities. The reorganization under this plan will produce benefits comparable to those we have already obtained through unified administration of our agricultural and housing programs.

While the primary purpose of the Reconstruction Finance Corporation is to make loans to business enterprises, the Corporation, even after the transfer of its housing functions, will still retain certain functions not directly related to its basic mission. These include the manufacture of synthetic rubber, production of abaca, and operation of the Texas City tin smelter, which are temporary functions. Certain of these activities, particularly rubber, are substantially related to existing programs within the Department of Commerce. It is, therefore, appropriate that they also be transferred along with the Corporation to the Department pending decision as to their ultimate disposition.

The Commission on Organization of the Executive Branch of the Government unanimously recommended that the Reconstruction Finance Corporation should be brought within the departmental structure of the executive branch. The Commission was not unanimous, however, in recommending the department to which the Corporation should be transferred. A majority of the Commissioners favored transfer to the Treasury Department; a minority preferred the Department of Commerce. I have given the Commission's recommendations careful study. In my judgment, the activities of the Corporation are designed primarily to aid business. This is also a basic mission of the Department of Commerce. On the other hand, the Treasury Department has no lending functions with respect to individuals or private corporations. The transfer of the Corporation to the Department of Commerce is consistent with the organization of lending activities for agriculture and housing.

The plan transfers the Reconstruction Finance Corporation as a corporate entity to the Department of Commerce. The Corporation's status within the Department of Commerce will be generally comparable to that of those 35 wholly owned Government corporations which are already within departments or agencies or subject to the supervision of department heads.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 24 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in Reorganization Plan No. 24 may not in itself result in substantial immediate savings. However, the important objective is maximum effectiveness in the administration of our programs to aid the Nation's business. Greater effectiveness in turn will produce indirect savings in terms of the quantity and quality of output in relation to expenditures. An itemization of these savings is not practicable.

The economic health and prosperity of this Nation are dependent upon the continuing growth of business and industry. It is of vital importance that the various Government services which can play a part in promoting such growth make their most effective contribution. I strongly urge acceptance of this plan as a means of accomplishing this objective.

HARRY S. TRUMAN.

THE WHITE HOUSE, *May 9, 1950.*

REORGANIZATION PLAN NO. 24 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

RECONSTRUCTION FINANCE CORPORATION

The Reconstruction Finance Corporation, together with all of its functions, agencies, property, assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, personnel, and records, is hereby transferred to the Department of Commerce, and shall be administered, subject to the supervision, coordination, and policy guidance of the Secretary of Commerce, by the Board of Directors and officers of the Corporation: *Provided*, That the agency, personnel, property, functions and all other matters and affairs transferred by, and all reorganizations effected by, Reorganization Plan No. 22 of 1950 and by Reorganization Plan No. 23 of 1950 are excluded from the scope and effect of this Reorganization Plan No. 24 of 1950 upon the taking effect, respectively, of such Reorganization Plans Nos. 22 and 23.

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81ST CONGRESS
2D SESSION

S. RES. 290

IN THE SENATE OF THE UNITED STATES

JUNE 1 (legislative day, MARCH 29), 1950

Mr. FULBRIGHT submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 24 of 1950 transmitted to Congress by the President on May 9, 1950.

81ST CONGRESS
2D SESSION

S. RES. 290

RESOLUTION

Disapproving Reorganization Plan Numbered 24 of 1950.

By Mr. FULBRIGHT

JUNE 1 (legislative day, MARCH 29), 1950

Referred to the Committee on Expenditures in the Executive Departments

81ST CONGRESS
2D SESSION

H. RES. 648

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 1950

Mr. HOFFMAN of Michigan submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 24 transmitted to Congress by the President on May 9, 1950.

81ST CONGRESS
2D SESSION

H. RES. 648

RESOLUTION

Disapproving Reorganization Plan Numbered 24 of 1950.

By Mr. HOFFMAN of Michigan

JUNE 13, 1950

Referred to the Committee on Expenditures in the Executive Departments

Union Calendar No. 835

81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Report No. 2321

REORGANIZATION PLAN NO. 24 OF 1950, TRANSFER OF THE RECONSTRUCTION FINANCE CORPORATION TO THE DEPARTMENT OF COMMERCE

JUNE 23, 1950.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DAWSON, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany H. Res. 648]

The Committee on Expenditures in the Executive Departments, to whom was referred the resolution (H. Res. 648) disapproving Reorganization Plan No. 24 of 1950, having considered the same, report unfavorably thereon without amendment and recommend that the resolution do not pass.

GENERAL STATEMENT

House Resolution 648 is to express disapproval of Reorganization Plan No. 24 of 1950, transmitted to the Congress by the President on the 9th day of May 1950; and the effect of the adoption of this resolution by the Congress will be to prevent such plan from coming into force and effect on July 8, 1950, mindful, however, that under section 6 (b) (2) of the Reorganization Act of 1949 (Public Law 109, 81st Cong.), that from the 60-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain.

The scope and effect of the reorganization plan, in the absence of a disapproval by a House resolution, are set forth in the plan in the following words and figures:

RECONSTRUCTION FINANCE CORPORATION

The Reconstruction Finance Corporation, together with all of its functions, agencies, property, assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, personnel, and records, is hereby transferred to the Department of Commerce, and shall be administered, subject to the supervision,

coordination, and policy guidance of the Secretary of Commerce, by the Board of Directors and officers of the Corporation: *Provided*, That the agency, personnel, property, functions, and all other matters and affairs transferred by, and all reorganizations effected by, Reorganization Plan No. 22 of 1950 and by Reorganization Plan No. 23 of 1950 are excluded from the scope and effect of this Reorganization Plan No. 24 of 1950 upon the taking effect, respectively, of such Reorganization Plans Nos. 22 and 23.

Addendum

This reorganization plan, involving, as it does, the transfer of the Reconstruction Finance Corporation to the Commerce Department, indirectly highlights the internal workings of this vast governmental lending agency. In the past as in the present, the task of this Corporation has been subjected to the scrutiny on many occasions of the Congress. Accordingly, this proposed transfer has produced great interest on the part of business, industry, and the general public. Many telegrams, statements, and letters propounding diverse viewpoints have been received by your committee. It is contemplated that insofar as practicable and consistent with the committee policy and economy, these comments and filed statements will be incorporated into the record of our hearings.

Many witnesses appeared both in favor of and in opposition to Reorganization Plan No. 24. Their able grasp of the issues involved and the excellent constructive observations contained in their statements and testimony, have proved to be of direct benefit to the deliberations of the committee during the extensive hearings. Abundant opportunity was had for mutual exchanges of views between the membership and these witnesses, thereby giving probative study and evaluation to the benefits and results to be gained from this legislation. A survey of the pertinent recommendations of the Commission on Organization of the Executive Branch of the Government indicates that the end products of efficiency and economy can best exist where related programs are grouped together to accomplish a major purpose of Government. Careful evaluation, beneficial testimony, and cross-examination of witnesses developed the basic and necessary information which has led your committee to support Reorganization Plan No. 24 and to reject House Resolution 648.

Purpose of Reorganization Plan No. 24

Reorganization Plan No. 24 transfers the Reconstruction Finance Corporation to the Department of Commerce. The Corporation would continue to be administered by its Board of Directors and officers, but would be subject to the supervision, coordination, and policy guidance of the Secretary of Commerce; however, there is excluded from the scope and effect of this reorganization plan the agency personnel, property, functions, and all other matters and affairs transferred by, and all reorganizations effected by, upon the taking effect of Reorganization Plan No. 22 of 1950 (transferring the Federal National Mortgage Association, which buys home mortgages from lending institutions, from RFC to the Housing and Home Finance Agency), and Reorganization Plan No. 23 of 1950 (transferring from the Reconstruction Finance Corporation to the Housing and Home Finance

Agency the lending functions of the Government with respect to the production and distribution of prefabricated houses and components).

The Reconstruction Finance Corporation is, by force of this plan, lifted lock, stock, and barrel, and deposited within the Department of Commerce. However, although the corporate entity is placed thereby within the framework of an executive department, its corporate functions would remain intact. The integration of this Corporation with the leadership in the mission charged to the Secretary of Commerce for fostering and promoting of business can bring improvement to many programs in the executive branch, auguring well for long-range economy and immediate increased efficiency in service.

Role and Mission of the Reconstruction Finance Corporation

Legislation enacted on January 22, 1932, saw the establishment of the Reconstruction Finance Corporation. Undertaking its vast assignment in the dark depression era, it employed its wide powers to the necessary safeguarding of the Nation's banking, insurance, and industrial enterprises. It proved fully during this catastrophic period that its existence was a valuable contribution to the stabilization of the national economy. Over the years since that time, and especially as the needs of World War II dictated, there were numerous legislative amendments to the original RFC Act. In addition, the Congress emphasized some facets of the Reconstruction Finance program in separate statutes. On June 30, 1947, the Eightieth Congress substantially repealed previous RFC legislation, including its general wartime powers, and enacted a new basis and authority for the Corporation with program emphasis stressed in another direction, namely, postwar business conversion and peacetime economic stabilization.

On May 25, 1948, the Eightieth Congress enacted Public Law 548 extending the lending powers of the Corporation to 1954, with a period of succession to 1956. The legislation enacted in 1948 substantially broadened the original functions of the RFC in order to—

> aid in financing agriculture, commerce, and industry, to encourage small business, to help in maintaining the economic stability of the country, and to assist in promoting maximum employment and production.

It can also be stated that congressional interest has centered on the internal workings of the Reconstruction Finance Corporation many times during its existence.

Generally, the present RFC is permitted to make loans on adequate security to business enterprises, including railroads and other carriers, to banking and financial institutions and public agencies engaged in financing or developing public works and projects, where in such cases credit from private sources cannot be obtained upon reasonable terms.

Total RFC authorizations now aggregate $3,880,000,000—with $825,000,000 to be employed for business loans; $200,000,000 for public agency loans; $40,000,000 for catastrophe loans; $15,000,000 for insurance loans; the greater share of the total, $2,750,000,000, goes to the Federal National Mortgage Association, and there is $50,000,000 for prefabricated housing loans. These two latter functions and funds are transferred out of RFC by Reorganization Plans 22 and 23 of 1950, respectively.

Basis for Reorganization Plan No. 24, Transfer of RFC to Commerce

1. REPORT ON THE GENERAL MANAGEMENT OF THE EXECUTIVE BRANCH

Recommendation No. 12 (p. 34)

The numerous agencies of the executive branch must be grouped into departments as nearly as possible by major purposes in order to give a coherent mission to each department.

Recommendation No. 17 (p. 36)

Therefore, we recommend that these various agencies be consolidated into about one-third of the present number.

2. REPORT ON THE DEPARTMENT OF THE TREASURY

Transfer to Treasury Department (pp. 10–11) (majority view)

A majority of the Commissioners concurred in the following:

The Commission believes * * * the RFC * * * should be placed in the Treasury Department with general responsibility for its supervision vested in the Secretary.

Recommendation No. 3 (p. 12) (majority view)

We recommend, therefore, that the supervision of the RFC * * * be vested in the Secretary of the Treasury.

The RFC is an independent agency reporting directly to the President. The workload of the President precludes the possibility of his devoting sufficient time necessary for supervision of this agency. Commission on Organization therefore concluded:

practically, * * * the RFC is * * * accountable to nobody.

Transfer to Commerce Department—Commissioners Aiken, Pollock, and Rowe (pp. 29–31) (minority view)

The Department of Commerce is clearly the agency of primary interest in the fostering of business. The RFC was once under the Secretary of Commerce; it was removed from his jurisdiction for reasons unrelated to departmental organization. If its "purpose" is to aid domestic business it should be put back.

Statements of dissent to this transfer to Treasury (minority view)

In his dissent, in effect Commissioner Acheson believed that the placing of the Reconstruction Finance Corporation in an executive department was a valid proposition; however, he did not believe the question of which department would prove most appropriate had been "sufficiently explored."

The majority, in favoring transfer of RFC to Treasury, based their views on the fact that it would appear that agencies which lend money should be placed in the "money department," the Treasury. On the other hand, the minority cogently made the point that "lending" is not, in itself, a "purpose." It is merely a means to a desired end. It is one of several techniques for assisting domestic business and should reside in the business agency, Commerce, to which it is related, rather than the fiscal agency, Treasury, which possesses no lending functions or link with programs for fostering business and industry.

3. REPORT ON THE DEPARTMENT OF THE INTERIOR

Recommendation No. 15 (p. 45)

We recommend that, in connection with its financing, the Reconstruction Finance Corporation should secure reports from the proposed Mineral Resources Services of the Department of the Interior.

4. REPORT ON FEDERAL BUSINESS ENTERPRISES

Recommendation No. 18 (pp. 43–44)

We recommend that the Congress review the Reconstruction Finance Corporation in accord with our recommendation No. 8 (p. 24).

Recommendation No. 8 (p. 24)

We recommend (*a*) that the Congress review the power to make direct loans * * *, taking into account the problems of economy, efficiency, and integrity; (*b*) that in nonemergency periods, the Congress place restrictions on direct loans in order to insure that the normal channels of credit are utilized to the maximum extent possible or, alternatively, provide for the guaranty of loans made by private or other established agencies.

Dissent from recommendation No. 18 (pp. 93–95)

Commissioners Acheson, Pollock, and Rowe dissented from recommendation No. 18:

* * * the Government does not, and should not, engage in business for the purpose of making a profit. Profit is a purpose in private industry but any profits derived by the Government from a business enterprise are merely incidental to the purpose for which the enterprise is undertaken.

A loan from the RFC is a means to an end and should be—

* * * directed toward the same objectives: The maintenance of the economic stability of the country, the promotion of maximum employment and production, and the development of business and industry.

Business enterprises do not and should not derive any special organizational status from the fact that they are business enterprises and not some other type of governmental activity.

The organizational status of a business enterprise should depend primarily on an analysis of its programs and its activities.

5. TASK FORCE REPORT ON LENDING AGENCIES (APPENDIX R)

Recommendation No. 1 (p. xiii)

With regard to lending to commercial enterprises: That RFC be discontinued, and that the Federal Reserve banks be authorized to guarantee loans to business enterprises made by private financial institutions.

Re: Discontinuance of Reconstruction Finance Corporation (pp. 21–27)

* * * the policy of the Congress has been that, as an emergency agency, Reconstruction Finance Corporation should cease to exist when the emergency ceases to exist. It is clear, according to the Senate Banking and Currency Committee, that the need is no longer present.

The task force felt that Reconstruction Finance Corporation has proved a successful convenient vehicle; however, its original purpose has been well served; the new and added functions given in its recent extension of life do not bear direct relationship to its major purpose.

Reconstruction Finance Corporation control of other Government Corporations (pp. 67–69)

With two exceptions, the Reconstruction Finance Corporation has been the owner of more Government corporations than has any other

agency of the Government except the Treasury Department and the Farm Credit Administration.

Recommendations to be applied if Reconstruction Finance Corporation is not discontinued (pp. 99–106)

The task force recommended that—

1. Reconstruction Finance Corporation be relieved of all nonlending activities.
2. Reconstruction Finance Corporation engage only in direct lending to domestic borrowers and that it be relieved of all authority not essential to that function.
3. Certain lending activities now performed by other agencies be transferred to Reconstruction Finance Corporation.
4. The purposes of Reconstruction Finance Corporation be more narrowly defined and that certain standards of lending be specifically set forth in the Reconstruction Finance Corporation Act.
5. The authority of the Board of Directors of Reconstruction Finance Corporation be expanded in certain respects.
6. The Reconstruction Finance Corporation Board of Directors be precluded from acting through its minority.
7. Federal National Mortgage Association not be authorized to own Government securities.
8. The ceiling on Reconstruction Finance Corporation loans be reduced and that the organization be contracted physically.

Practicability of This Proposed Transfer to the Commerce Department

Reorganization Plan No. 24 would accomplish one of the basic objectives of the Commission on Organization of the Executive Branch of the Government. For, in its initial report on General Management of the Executive Branch of the Government, that body insisted that—

> The numerous agencies of the executive branch must be grouped into departments as nearly as possible by major purposes in order to give a coherent mission to each department.

This can only be done by grouping as nearly as possible the numerous related functions of the Government. The workload of the President precludes his constant supervision and close attention to the effectuation of the programs of the many agencies. By grouping like functions and related programs, increasingly effective direction by the President in matters of policy guidance can be achieved. This would work for the attainment of better organization and unified goals in the executive branch.

Further in this vein, the Commission on Organization of the Executive Branch of the Government pointed out in the same report (p. 3):

> The executive branch is not organized into a workable number of major departments and agencies which the President can effectively direct, but is cut up into a large number of agencies, which divide responsibility and which are too great in number for effective direction from the top.

Convinced that the telescoping of a total number of existing agencies was imperative, the Commission on Organization unanimously deduced that the Reconstruction Finance Corporation should be placed within the framework of a major executive department.

In the message of the President of the United States, accompanying Reorganization Plan No. 24 of 1950, the Department of Commerce was submitted as the logical repository for the Reconstruction Finance Corporation. The President pointedly asserted that—

> the activities of the Corporation are designed primarily to aid business. This is also a basic mission of the Department of Commerce.

In this fashion Reorganization Plan No. 24 commends itself in its advance toward a simpler structure for the executive branch of the Government. In addition, the plan would bring together the various governmental services of distinct value to business and industry, since the Department of Commerce is responsible for fostering and promoting business as a vital element of our national economy. Plan No. 24 would thereby give central leadership and coordinated direction to the entire Government business program.

The majority of the Commission on Organization favored the transfer of the Reconstruction Finance Corporation to the Treasury Department. However, it should be noted the Treasury Department has no lending functions; placing the Reconstruction Finance Corporation within its structure would not achieve necessary grouping of related programs of the executive branch according to major purposes. Presumably, Treasury was selected for its connotation as the "money agent" of the Government, rather than from any analysis of its functions. An examination of the functions of the Treasury and Commerce Departments, in the light of the role and mission of the Reconstruction Finance Corporation, clearly demonstrates that the program of the Reconstruction Finance Corporation closely parallels the areas of interest to the Commerce Department.

The Department of Commerce was instituted—

> to foster, promote, and develop * * * domestic commerce; the mining, manufacturing, shipping, fishing industry; and the transportation facilities of the United States.

The Reconstruction Finance Corporation has demonstrated much merit through its part in safeguarding our banking and financial institutions, business and common-carrier facilities. Under present legislation the Reconstruction Finance Corporation is permitted to make loans to these essential elements of our national economy and, in addition, to public agencies financing or developing public-works projects, upon adequate security, and if private credit sources are unavailable on reasonable terms. Thus, the Reconstruction Finance Corporation can be viewed in large measure, as a potent factor in the lifeblood of business. Lending, as we well know, is not an end in itself, but a means to a desired end. Through coordination of business programing and lending functions, concomitants of our business life, the purpose of the Department of Commerce can be best achieved.

Although the Reconstruction Finance Corporation, under this proposed transfer, will be placed within the four corners of the Department of Commerce, it will continue to be administered as a corporate entity by its Board of Directors and officers. This legislation also makes the Corporation subject to the supervision, coordination, and policy guidance of the Secretary of Commerce. Yet this cannot be construed as any lessening of the independent powers or freedom of of action on the part of the Reconstruction Finance Corporation. It is not contemplated that the Secretary of Commerce will involve

himself unduly in the internal management of the Corporation. "Supervision, coordination, and policy guidance," as recited, are primarily related to the Reconstruction Finance Corporation in its relationship as an entity with the rest of the body of the Department of Commerce. The Secretary will be responsible for the better effectiveness of the joint mission of the Corporation and the Department in striving toward a single goal. His supervision will be related to assuring that the Corporation is acting within its powers and his policy guidance will be directed to ascertaining that the Reconstruction Finance Corporation is acting within the general lending powers and functions vested in it. Nothing is conferred on the Secretary of Commerce, by force of this legislation which would permit him to dictate or influence the granting or withholding of specific loans to any corporation, organization, or individual. In this realm, the corporate directors would still remain responsible. Such loans, however, would be made only in fields grounded on coordinated policy.

The Reconstruction Finance Corporation as presently established has authorization for existence until 1956. The question of its permanent retention or dissolution is not a valid proposition in considering Reorganization Plan No. 24. This thesis has occupied the Congress intermittently since the very inception of the Corporation. Until dissolved, the Corporation exists as a part of the executive branch of the Government. The problem facing the Congress, in its reorganization efforts, is focused on the proper major department into which the Reconstruction Finance Corporation should be placed. The feasibility of continuing corporate lending powers or appraisals of judgment in regard to specific loans are not properly at issue in considering this reorganization legislation. Such scrutiny by the Congress in directing attention to the internal management of the Reconstruction Finance Corporation performs valuable service. However, findings in such matters can be carried out as well after this corporate transfer to the Commerce Department.

In appearing before the Senate Committee on Expenditures in the Executive Departments on June 14, 1950, the Honorable Charles Sawyer, Secretary of Commerce, in unequivocally endorsing the transfer proposed in Reorganization Plan No. 24, stated:

> You may wish me to indicate for you how I, as Secretary of Commerce, would approach my new responsibility of guiding the Reconstruction Finance Corporation in matters of policy.
>
> The Reconstruction Finance Corporation Act of 1948 authorizes the Corporation to make loans and purchase obligations in order "to aid in financing agriculture, commerce, and industry, to encourage small business, to help in maintaining the economic stability of the country, and to assist in promoting maximum employment and production." The intent of this language seems clear to me. For it to be translated into practical policy, however, requires that the Corporation's board know the facts concerning a very wide range of business and economic activity. It must know where its aid in financing commerce and industry is most needed. It must know what is to be regarded as small business. It must know in what areas or industries small business is in need of aid. It must have some solid basis for judging how loans can be made most effective in promoting maximum production and employment.

Secretary Sawyer added:

> * * * I am convinced * * * that such guidance is most appropriately furnished by the official who is charged with precisely this general area of public policy in all its aspects, nonfinancial as well as financial, and statistical and analytical as well as operating.

THE LEGAL EFFECT OF REORGANIZATION PLAN NO. 5 OF 1950 (DEPARTMENT OF COMMERCE) UPON THE RECONSTRUCTION FINANCE CORPORATION TRANSFERRED UNDER REORGANIZATION PLAN NO. 24 OF 1950

It was developed during testimony of representatives of the Bureau of the Budget that assurances could be given that operation of Reorganization Plan No. 24 would not be included within the charter of centralized authority contained in Reorganization Plan No. 5 of 1950. This has been corroborated by the substantiating statement, dated June 20, 1950, by the Honorable Peyton Ford, Acting Attorney General:

> Reorganization Plan No. 5 does not provide for any transfer of functions acquired by the Department at a later date. * * * the functions of the Reconstruction Finance Corporation will not, upon the taking effect of Plan No. 24, become vested in the Secretary of Commerce. These functions were transferred to the Department of Commerce, and not to the Secretary.

Mr. Ford added:

> Plan No. 5 in transferring functions to the Secretary of Commerce is not prospective in effect. It does not affect the Reconstruction Finance Corporation because the Corporation was not in the Department at the time plan No. 5 took effect.

Plan No. 24 transfers the Reconstruction Finance Corporation to the Department of Commerce to be administered by the Board of Directors and officers of the Corporation or, as the President said in his message submitting the plan, "as a corporate entity," which will assure that "individual questions of administration" will continue to be handled by the Board of Directors after the transfer, leaving the broad policy guidances and over-all supervision in the hands of the Secretary.

The Acting Attorney General further noted that—

> In any event, if there were any inconsistency between plan No. 5 and plan No. 24, the latter plan, which will become effective at a later date, will, like superseding legislation, prevail.
>
> Also, plan No. 24 furnishes no reason for concluding that the relationships which have been established between the Corporation and the Congress will be disturbed by the provisions of the plan.

Since the Corporation remains within the executive branch, the transfer will not militate against this status and as such will remain a creature "of the Congress and subject to legislative control."

CONCLUSIONS—A SUMMARY

Reorganization Plan. No. 24 proposes to transfer the Reconstruction Finance Corporation to the Department of Commerce. This legislation would accomplish a basic goal of the Commission on Organization of the Executive Branch of the Government by grouping an agency of the executive branch into a major department related by purpose; thus strengthening the "coherent mission" of that Department. The simplification in the executive structure which this would effect would prove beneficial in terms of direction and program while removing the RFC from the category of being "accountable to nobody."

The Commission on Organization was unanimous in endorsing the placing of the Reconstruction Finance Corporation in an executive department. Reorganization Plan No. 24 adopted the minority views

of this Commission on this transfer. The President, concurring with the minority, stated in his accompanying message:

> The activities of the Corporation are designed primarily to aid business. This is also a basic mission of the Department of Commerce.

This reorganization would facilitate the programs for the business and industry on the part of the Government.

The majority of the Commission on Organization in numerical weight favored placing the Reconstruction Finance Corporation in the Department of the Treasury. An examination of testimony of witnesses and statements has led your committee to believe that this transfer to Treasury would be unsound. The Treasury Department, as fiscal agent of the Government, has no lending functions. The Reconstruction Finance Corporation would accomplish no coordination of program direction or beneficial improvement within that Department.

Although reposing within the Department of Commerce and subject to the supervision, policy guidance, and coordination of the Secretary of Commerce, the Reconstruction Finance Corporation would remain a corporate entity. Its Board of Directors would be charged with the internal management of the Corporation, and the exercise of sound judgment of specific loans. Unified leadership would be supplied since the Corporation remains intact and the Corporation and the Department can aid business by pursuing the same path based on coordinated programs.

In view of the division of opinion existing among the membership of the Commission on Organization, and the opportunity for aid to business in unity of direction by the Corporation and the Department of Commerce, it is the belief of your committee that sound reason urges adoption of Reorganization Plan No. 24.

The Department of Commerce now has centralized authority commensurate with responsibility by force of Reorganization Plan No. 5. The Acting Attorney General has rendered a legal opinion to the effect that the supervision, coordination, and policy guidance contemplated in the instant, plan is not affected by Reorganization Plan No. 5 of 1950 already enacted, since the latter does not provide for transfer of functions to the Secretary, which may be acquired by the Department at a later date. In addition, Reorganization Plan No. 24, becoming effective at a later date than plan No. 5, must, as with all superseding legislation, prevail. It is self-evident that an intelligent grouping of similar functions promotes consistent policies and encourages coordinated administration with freer flow and exchange of necessary information, all of which can improve the structure and workings of our Government. This simplification of Government, allowing as it does top-level direction and scrutiny, will reward in immediate improvement in service and long-range economy in governmental costs.

Reorganization Plan No. 24 can prove revitalizing toward good government and improved business programing, as made very clear in the President's accompanying message of May 9, 1950:

> The economic health and prosperity of this Nation are dependent upon the continuing growth of business and industry. It is of vital importance that the various Government services which can play a part in promoting such growth make their most effective contribution.

MINORITY VIEWS

Reorganization Plan No. 24 of 1950, transferring the now independent Reconstruction Finance Corporation to the Department of Commerce, is in conflict with a recommendation of the Commission on Organization of the Executive Branch of the Government, which proposed to place it in the Treasury Department.

The plan raises issues broader than those relating to efficient organization. It is part of the administration program for what may prove to be a dangerous relaxation of credit policies.

Decision on the proper location of the RFC in the Government structure should be deferred until there is opportunity for more complete consideration of pending legislative measures before other committees. Time also should be given for a comprehensive review by the Congress of policies and operations of this Corporation, which was the major recommendation of the Hoover Commission with respect to it.

The plan should be rejected by approval by the House of Representatives of House Resolution 648.

TERMS OF PLAN

Reorganization Plan No. 24 consists of a single paragraph, the implications of which are far reaching.

It provides that the Reconstruction Finance Corporation, together with all of its functions, agencies, property, assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, personnel, and records, shall be transferred to the Department of Commerce.

The Corporation would continue to be administered by its Board of Directors but—

subject to the supervision, coordination, and policy guidance of the Secretary of Commerce.

Excluded from the scope and effect of the plan are functions relating to housing which are to be transferred to the Housing and Home Finance Agency under Reorganization Plans Nos. 22 and 23, also pending.

ATTITUDE OF HOOVER CITIZENS COMMITTEE

Mr. Robert L. L. McCormick, research director for the Citizens Committee for the Hoover Report, testified that his group could not support Reorganization Plan No. 24 because of its divergence from the recommendations of the Hoover Commission.

The attitude of this group, which is widely representative of a very strong public sentiment favoring adoption of the reorganization program of the Hoover Commission, is that plan No. 24 should not be allowed to become effective until there is a complete congressional review of the policies and operations of the Corporation.

RECOMMENDATIONS OF THE HOOVER COMMISSION

The Hoover Commission in its report, General Management of the Executive Branch, held that there are an excessive number of departments, administrations, agencies, boards, and commissions engaged in executive work which report directly to the President, if they report to anyone. In its recommendation No. 17 in this report, the Commission proposed that 65 present departments and agencies be consolidated into about one-third that number.

Recommendation No. 12 in the same report was that—

> the numerous agencies of the executive branch must be grouped into departments as nearly as possible by major purposes in order to give a coherent mission to each department.

The Commission added that—

> by placing functions cheek-by-jowl the overlaps can be eliminated, and, of even greater importance, coordinated policies can be developed.

The Hoover Commission in its report on the Treasury Department pointed out that the Reconstruction Finance Corporation, the Export-Import Bank, and the Federal Deposit Insurance Corporation are independent agencies reporting directly to the President, that the President cannot give the time necessary for their supervision, and that, practically, they are accountable to nobody.

The Commission in its recommendation No. 3 in that report proposed that supervision of the operations of these agencies be vested in the Secretary of the Treasury.

With respect to the Reconstruction Finance Corporation, the Commission expressed its belief that—

> the operations of this Corporation, on which we make recommendations in our report on Federal business enterprises, should be placed in the Treasury Department with general responsibility for its supervision vested in the Secretary.

The major recommendations of the Commission with respect to the RFC appear in the report on Federal business enterprises.

Recommendation No. 18 of that report was that the Congress review the Reconstruction Finance Corporation in accord with recommendation No. 8 in the same report relating to lending policies of all corporations.

Recommendation No. 8 was as follows:

> We recommend (*a*) that the Congress review the power to make loans * * * taking into account the problems of economy, efficiency, and integrity; (*b*) that in nonemergency periods the Congress place restrictions on direct loans in order to insure that the normal channels of credit are utilized to the maximum extent possible or, alternatively, provide for the guaranty of loans made by private or other established agencies.

DIRECT LOAN ISSUE

The Hoover Commission in recommending that the Reconstruction Finance Corporation be placed in the Treasury Department appears to have been influenced by its belief that further direct lending by the Government should be curtailed rather than expanded as proposed in the administration's present program.

The Commission had this to say on direct lending:

> Direct lending by the Government to persons or enterprises opens up dangerous possibilities of waste and favoritism to individuals or enterprises. It invites political and private pressure, or even corruption. Emergencies may arise in depression, war, national defense, or disaster which must be met in this way. But direct lending should be absolutely avoided except for emergencies.

The Commission held that no guaranties of loans should be made on terms more liberal than those made on direct loans and that the Government should not engage in direct lending where loans can be obtained from private sources on reasonable terms.

The Commission did not go as far as its task force on landing agencies, which recommended the liquidation of the RFC.

The Commission expressed its own view on this Corporation as follows:

> The Reconstruction Finance Corporation performed a useful and necessary function in the days of the depression and the war. Its life was extended by the Congress on May 25, 1948. The manifest major purpose of that extension was to maintain it as a stand-by agency in case of emergencies. But it still has 31 branch offices and over 3,000 employees.
>
> This agency is engaged in making direct loans to persons and enterprises, frequently without the participation of private agencies in its risks.
>
> Our task force strongly recommends the liquidation of this Corporation and the substitution of guaranties by the Government, operating through the Federal Reserve banks, of loans to be made by commercial banks.
>
> The Commission believes it preferable that the Corporation be reorganized to guarantee loans by commercial banks.
>
> There may arise cases of needed loans which are not available from private institutions. However, this unavailability, except in the case of emergency or where the national defense is involved, arises from the fact that more than normal risk usually is involved. It may be in the public interest to provide such credit.
>
> However, the credit of the Government should not be used to obtain lower rates of interest and easier terms than those which private institutions can properly provide.

COORDINATION OF CREDIT AGENCIES

Under the Hoover Commission program, the policies of domestic credit agencies would be coordinated by a National Monetary and Credit Council to be appointed by the President. The Council would be located in the Treasury Department and its Chairman would be the Secretary of the Treasury. The various credit and related agencies would be represented on the Council. Its functions in the domestic field would correspond to those of the National Advisory Council on International Monetary and Financial Problems in the foreign field.

By means of the coordinating activities of the proposed National Monetary and Credit Council, the Commission proposed to bring policies of housing credit agencies, which were to be grouped under the Housing and Home Finance Agency, and those of farm credit agencies, which were to remain in the Farm Credit Administration within the Department of Agriculture, into line with those of the Reconstruction Finance Corporation and the Export-Import Bank in the Treasury Department.

The Reconstruction Finance Corporation, the Export-Import Bank, and the Federal Deposit Insurance Corporation were assigned to the Treasury Department under a listing of that Department's responsibilities which included—

> the maintenance of the public credit, advice in the conduct of credit institutions and supervision of certain others—
>
> and—
>
> the periodic inspection of lending and other agencies in process of liquidation.

PURPOSE OF REORGANIZATION PLAN NO. 24

The President, in his message accompanying Reorganization Plan No. 24, asserted that the activities of the Reconstruction Finance Corporation are designed primarily to aid business, which is the basic mission of the Department of Commerce. He pointed out that a minority of the Hoover Commission favored assignment of the Reconstruction Finance Corporation to the Department of Commerce, the statutory function of which is—

> to foster, promote, and develop the foreign and domestic commerce.

The President referred to his special message of May 5 on the subject of coordination of Government aids to small and independent business.

The real significance of the reorganization plan becomes apparent upon study of the President's message of May 5 and legislation introduced to effectuate the recommendations of that message.

It is important that the Congress should understand fully the implications of that message in acting upon Reorganization Plan No. 24.

The President in his May 5 message recommended a five-point program including, first, insurance of bank loans up to $25,000; second, the chartering of national investment companies; third, broadening of lending powers of the Reconstruction Finance Corporation; fourth, strengthening and improvement of the technical and managerial aids now provided by the Department of Commerce; and, fifth, placing of responsibility for these new programs in the Secretary of Commerce, including transfer of the RFC to his supervision.

With respect to the broadening of the lending powers of the RFC, the President said:

> The Corporation should be permitted to relax its collateral requirements on loans to small businesses, if management abilities and potential earnings of the borrower afford reasonable expectation of repayment. This amendment will merely give the Corporation the same discretion which many bankers already successfully exercise. The Corporation should also be authorized to increase its participation with private banks on such loans. In addition, I again recommend that the present 10-year maximum maturity on all types of business loans be increased to at least 15 years.

PENDING LEGISLATION

The President's recommendations are before the Congress in S. 3625, which is in the hands of the Senate Committee on Banking and Currency, and H. R. 8565 and H. R. 8566, in the House Committee on Banking and Currency. The bill is designated as the Small Business Act of 1950.

Title III of this measure relates to amendments to the Reconstruction Finance Corporation Act.

One of the principal proposed amendments would insert the following among present statutory lending powers of the Reconstruction Finance Corporation:

> To make loans to any small-business enterprise (as determined pursuant to section 603 of the Small Business Act of 1950, and the classifications established thereunder) which is a worthy credit risk but does not have adequate collateral, either directly or in cooperation with banks or other lending institutions through agreements to participate or by the purchase of participations, or otherwise, for

the purpose of meeting the credit requirements of such business enterprise: *Provided*, That management abilities, potential earnings, and other factors deemed pertinent by the Corporation afford a reasonable expectation that the loan will be repaid.

Section 603, referred to in the proposed amendment, authorizes the Secretary of Commerce to establish such classifications of business enterprises as he deems appropriate. The criteria to be considered in establishing such classifications include the relative size and importance of businesses in an industry, the competitive circumstances and degree of independence, and such other factors as may be appropriate.

The proposed legislation is very broad and raises many highly controversial issues. Members of Congress should realize that approval of Reorganization Plan No. 24 is intended as a part of a movement for liberalization of the credit policies of the Reconstruction Finance Corporation in a manner contrary to its traditions.

If the entire legislative program is approved, we may expect scandals in RFC lending which would cause the cases which have been subjects of recent public discussion to pale into insignificance.

Liberalization of RFC credit policies would mean a reversal of the policies laid down by the Congress in the acts of 1947 and 1948 which provided for reorganization of the wartime Corporation on a peacetime basis. In both of those laws the Congress declared its purpose to curtail rather than expand the activities of the Corporation.

DIVERGENT VIEWS IN JOINT COMMITTEE ON ECONOMIC REPORT

While a subcommittee on investment of the Joint Committee on the Economic Report issued a report in March recommending Government action to provide capital loans and equity capital to small enterprise, a minority of that committee challenged both its statement of facts and conclusions.

The minority was skeptical of proposals for a liberalization of credit and held that the majority had placed too little emphasis on adverse effects of heavy taxation upon all kinds of business.

The minority report, signed by Senator Taft and Representative Herter, said:

> In addition to the shortage of equity capital, the small companies have difficulty in borrowing money on any long-term basis. The testimony is conflicting as to whether money is available on a short-time basis from the banks. We are inclined to think that it is available to the extent that the loans are sound, and we question the desirability of the Government stimulating short-term loans which are not sound.,

These minority party members held that the principal causes of the disinclination of private investors to invest in common stocks and other forms of equity capital are high tax rates on middle and higher incomes, discrimination against investors in common stocks because of double taxation, and tax difficulties confronted by all business enterprises.

INVESTIGATION BY FULBRIGHT SUBCOMMITTEE

A subcommittee of the Senate Committee on Banking and Currency, headed by Senator Fulbright, already is engaged in a review of the policies and operations of the Reconstruction Finance Corporation as recommended by the Hoover Commission.

Senator Fulbright in testimony before the Senate Committee on Expenditures in the Executive Departments on Reorganization Plan No. 24 asked for its rejection. He stated that his subcommittee could not complete its work before the effective date of the reorganization plan.

It was Senator Fulbright's opinion that a decision by the Congress on the future policies of the RFC should precede any action as to its place in the Government structure.

Disclosures before the Fulbright subcommittee have been of such a disturbing character as to provide a warning against further liberalization of lending policies of the Reconstruction Finance Corporation as proposed to accompany its transfer to the Department of Commerce.

INTEGRITY OF GOVERNMENT CREDIT

Maintenance of the integrity of the Government's credit is of fundamental importance to the entire American economy.

It is essential that the lending agencies of the Government should maintain standards on a par with those of private banking. Loose methods could lead to Government bankruptcy in the same way that lax financial policies undermine private banking and business.

Heretofore, agencies with very liberal policies to meet depression or other emergencies have been kept apart from those which have kept their practices on a sound basis.

The Reconstruction Finance Corporation, at least until a recent period, has maintained in general, a reputation for conservatism.

Excessive liberalization of its policies would tend to weaken the financial foundation upon which rests not only the Government but the whole economy as well.

CONCLUSION

The issues which are in the background of Reorganization Plan No. 24 are clearly of such a nature as to call for caution.

It is neither necessary nor desirable to take snap action on this plan without full consideration of related legislative questions. Other committees than those on Expenditures in the Executive Departments in the two Houses of Congress are concerned with these related matters. The status of pending legislation and investigations is such as to preclude any possibility of action on related issues prior to the effective date of Reorganization Plan No. 24.

The Hoover Commission and the Citizens Committee for the Hoover Report have made a convincing showing for the transfer of the Reconstruction Finance Corporation to the Treasury Department rather than to the Department of Commerce, assuming a decision of Congress to chart the Corporation's course along sound lines.

Both the Hoover Commission and the Citizens Committee for the Hoover Report have given greater emphasis to the Commission's recommendation for a review by Congress of operations and policies of the Reconstruction Finance Corporation than to the question of its location.

Such a review should clarify the issues in a manner to facilitate a decision as to whether the Corporation should be placed in the Department of Commerce or the Treasury Department.

Reorganization Plan No. 24 should be rejected by approval by the House of Representatives of House Resolution 648. Nothing will be lost by such rejection. The question can be reopened at a later date after questions of legislative policy have been decided.

Respectfully submitted.

CLARE E. HOFFMAN.
R. WALTER RIEHLMAN.
W. L. PFEIFFER.
HAROLD O. LOVRE.
ROBERT F. RICH.
RALPH HARVEY.
CHARLES A. HALLECK,
By C. E. H.

○

Union Calendar No. 835

81ST CONGRESS
2D SESSION

H. RES. 648

[Report No. 2321]

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 1950

Mr. HOFFMAN of Michigan submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

JUNE 23, 1950

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

RESOLUTION

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 24 transmitted to Congress by the President on May 9, 1950.

Union Calendar No. 835

81ST CONGRESS
2D SESSION

H. RES. 648

[Report No. 2321]

RESOLUTION

Disapproving Reorganization Plan Numbered 24 of 1950.

By Mr. HOFFMAN of Michigan

JUNE 13, 1950

Referred to the Committee on Expenditures in the Executive Departments

JUNE 23, 1950

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Calendar No. 1870

81st Congress, 2d Session | SENATE | Report No. 1868

REORGANIZATION PLAN NO. 24 OF 1950, PROVIDING FOR THE TRANSFER OF THE RECONSTRUCTION FINANCE CORPORATION TO THE DEPARTMENT OF COMMERCE

June 26 (legislative day, June 7), 1950.—Ordered to be printed

Mr. McClellan, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany S. Res. 290]

The Committee on Expenditures in the Executive Departments, to whom was referred Senate Resolution 290, expressing disapproval of Reorganization Plan No. 24 of 1950, report thereon without recommendation. The complete texts of plan No. 24 and the President's message accompanying the plan are printed as appendix A of this report.

In reporting Senate Resolution 290 without recommendation, a majority of the committee expressed approval of the resolution but refrained from making any specific recommendation to the Senate with reference to the adoption or rejection of the resolution for the reasons given in the body of this report.

Since the plan in no way conforms to the specific Hoover Commission recommendation and, in fact, deviates therefrom, the plan must stand or fall on its own merits. In order that the Senate may have full information relative to its provisions and potentialities, the committee has endeavored to set forth all the pertinent facts in detail herein.

PURPOSE

The purpose of this plan is to place the Reconstruction Finance Corporation, as an integral unit, within the framework of the Department of Commerce. The Corporation would continue to be administered by its own Board of Directors and officers but would be subject to the "supervision, coordination, and policy guidance" of the Secretary of Commerce.

RECOMMENDATIONS OF THE HOOVER COMMISSION

This plan is in complete digression from the recommendation of the Hoover Commission, that the Reconstruction Finance Corporation be placed in the Department of the Treasury. Recommendation No. 3 appearing in the Hoover Commission report on the Treasury Department is as follows:

> We recommend, therefore, that the supervision of the operations of the Reconstruction Finance Corporation, the Federal Deposit Insurance Corporation, and the Export-Import Bank be vested in the Secretary of the Treasury.

Dissenting views were included in the Hoover Commission report on the Treasury Department by Commissioners Aiken, Pollock, and Rowe. Those three Commissioners agreed with the majority that the Reconstruction Finance Corporation should be placed within one of the departments of the executive branch, but took the position that it should be located within the Commerce Department. Their dissent from the majority opinion arose from a different interpretation of "major purpose." The minority view was that the primary function of RFC is the "promotion of foreign and domestic commerce and trade," a prime function of the Department of Commerce, rather than a strictly financial or "money" undertaking as an end in itself, as was the apparent basis for the majority recommendation. Therefore, the minority viewed the merging of RFC into the Department of Commerce as a natural and logical move, which accords with the views of the President in his message to Congress which accompanies the plan.

The Hoover Commission task force on lending agencies recommended that the Reconstruction Finance Corporation be abolished. The ground for this recommendation was, briefly, that RFC originally was created to cope with a national emergency and, at the time of its creation, the task force points out, it was the policy of Congress that the termination of the emergency should mark also the termination of RFC. As the emergency which brought about the creation of RFC has long since ceased to exist, the task force assumed the position that the Corporation should be abolished.

In its report on Federal Business Enterprises the Commission recommended (recommendation No. 18) "that the Congress review the Reconstruction Finance Corporation," concluding (preface to recommendation No. 8) that—

> direct lending by the Government to persons or enterprises opens up dangerous possibilities of waste and favoritism to individuals or enterprises. It invites political and private pressure, or even corruption. Emergencies may arise in depression, war, national defense, or disaster which must be met this way. But direct lending should be absolutely avoided except for emergencies.[1]

HISTORICAL BACKGROUND

The Reconstruction Finance Corporation was created on January 22, 1932, by the Reconstruction Finance Corporation Act (47 Stat. 5; 15 U. S. C. 601 et seq.). Through the years since its formation, RFC has undergone a vast number of modifications in respect of its organic authority and has been extended as to its succession on numerous occasions, now having a termination date of June 30, 1956.

[1] See section on Senate survey of RFC, herein.

RFC was, in effect, rechartered by the Congress by Public Law 132, Eightieth Congress, approved June 30, 1947. That act was comprehensively amended by Public Law 548, Eightieth Congress, approved May 25, 1948, which now constitutes a major portion of the Corporation's organic law. Among other important features, Public Law 548 established a ceiling of $1,500,000,000 as a monetary control over the total investments, loans, purchases, and commitments of RFC which were permitted to be outstanding at any one time. Subsequent amendments to that monetary ceiling have been made from time to time in other enactments of the Congress, with a result that RFC now has a monetary ceiling on its investments, loans, purchases, and commitments of $3,750,000,000 (see Public Law 864, July 1, 1948; Public Law 176, July 19, 1949; Public Law 387, October 25, 1949; Public Law 475, April 20, 1950).

The present basic mission of the Reconstruction Finance Corporation, as expressed in section 4 of Public Law 548, is—

> to aid in financing agriculture, commerce, and industry, to encourage small business, to help in maintaining the economic stability of the country, and to assist in promoting maximum employment and production.

To accomplish these ends, the Corporation may purchase the obligations of and may make loans to business enterprises organized or operating under the laws of any State or of the United States; may make loans to any financial institution similarly organized; may assist in the financing of Federal, State, or municipal projects through the purchase of obligations or the making of loans; and may assist in the alleviation of the effects of catastrophes through the making of appropriate loans. In addition, the officers and directors of RFC administer the mortgage programs under the Federal National Mortgage Association.

In general, the administrative and executive power and discretion which are vested in the Board of Directors of the Corporation are of extraordinary latitude. The law embodies certain policy guides such as the policy that certain types of financial assistance shall not be granted unless the assistance applied for is not otherwise available on reasonable terms. Similarly, the law contains a provision that, except in the case of public projects, loans made and obligations purchased by the Corporation must mature in not more than 10 years. Despite such legislative expressions, however, it is recognized that the Board of Directors, although a part of the executive branch of the Government, is in effect entirely responsible for all of its decisions and actions. In this relation, it may be mentioned that the present major governing law of RFC—that is, Public Law 548—provides that, after confirmation of the directors by the Senate, one shall be designated by the President to serve as Chairman. Prior to the passage of Public Law 548, there was no legislative provision for the appointment of a Chairman, that functionary having theretofore been chosen by the Board.

SENATE SURVEY OF RFC

On February 8, 1950, the Senate adopted Senate Resolution 219, pursuant to which a Banking and Currency Subcommittee, consisting of Senators Fulbright (chairman), Maybank, Frear, Douglas, Tobey, and Capehart, is now conducting a comprehensive survey of the operations of RFC. In his testimony before this committee on June 14,

1950, during hearings on the subject resolution, its sponsor, Senator Fulbright, referred repeatedly to the work of his subcommittee and expressed the considered view that one of the effects of this plan would be the complete nullification of the work which the subcommittee has accomplished thus far. His position arises from the fact that the subcommittee has been proceeding from the perspective of the investigation of an independent agency and with a view toward the recommending of specific legislation to improve, correct, expand, or limit the functions of that agency. Should the plan be permitted to go into effect on July 9, 1950, the Reconstruction Finance Corporation will have undergone a complete metamorphosis and, through its having become subordinate to the head of an executive department, there would be necessitated an equally complete change in the approach of the investigating subcommittee. Under Senate Resolution 219, the subcommittee is required to report not later than July 15, 1950. Senator Fulbright expressed doubt that the report could be made by that date and stated that he felt it would be necessary to request an extension of time. In any event, this committee desires to call the current investigation to the attention of Members of the Senate, and to suggest that this factor and its implications should be weighed carefully by the Senate in taking action with respect to this plan.

TESTIMONY FOR SENATE RESOLUTION 290

The committee held hearings on Reorganization Plan No. 24 of 1950 on June 14 and 15, 1950. Nine witnesses testified, seven in favor of the resolution, and two against the resolution, or in favor of the plan.

One of the premises on which the sponsor of the resolution, Senator Fulbright, based his opposition to the plan is the circumstance that the investigation now being conducted under his chairmanship cannot be completed prior to July 9, 1950, the effective date of the plan. He contended that the recommendation of the Hoover Commission referred to above, for a review of the activities of RFC, should be permitted to be implemented as is now being done before any action of a major nature is taken with respect to the Corporation. Senator Fulbright directed the attention of the committee to the recent message of the President in the matter of additional assistance to small business, pursuant to which legislation has already been introduced, and pointed out that, in the consideration of that legislation by the Congress, decision can be made more timely and with equal facility as to the proper location of RFC.

Regarding the broader aspects of the issue, Senator Fulbright placed himself in opposition to the transfer of RFC to any executive department. It is his position that the very nature of the activities of the Corporation, involving as they do the wielding of tremendous power and influence in the economic life of the country, makes it essential that the Corporation, if continued in existence, be continued in its present independent status.

Robert L. L. McCormick, research director of the Citizens Committee for the Hoover Report, also testified in support of the resolution. His opposition to the plan arises primarily from the fact that, by transferring the Reconstruction Finance Corporation to the Department of Commerce and thus within the supervising authority of the

Secretary of Commerce, it directly counters the related recommendation of the Hoover Commission that RFC be placed within the Department of the Treasury. Nevertheless, Mr. McCormick gave recognition to the conformance of Reorganization Plan No. 24 with recommendation No. 12 appearing in the Hoover Commission report, General Management of the Executive Branch, that the agencies of the executive branch be grouped into departments according to major purposes.

Mr. McCormick expressed the belief that the issue involved in plan No. 24 is much broader than that in many other reorganization plans which have thus far been submitted to the Congress. He directed attention to pending legislation which well may have decisive bearing upon the Reconstruction Finance Corporation, and also recognized the current investigation now under way by Senator Fulbright's subcommittee. He suggested that such legislation and the results of the investigation may be more opportunely considered if any disposition of RFC is deferred, concluding that—

* * * If the Congress favors liberalization of direct loans by the RFC, rather than curtailment, there is ground for transfer of this agency to the Department of Commerce, which is more concerned with the active promotion of business than is the Treasury Department. * * * This committee or Congress as a whole may not find it easy to pass intelligently upon the question of the proper position of the RFC in the Government structure until action is taken upon substantive legislation which is pending in this field.

Mr. Harvey J. Gunderson, a director of the Reconstruction Finance Corporation and who has been on the staff of the Corporation since 1932, the year it was founded, added his testimony to those opposed to the plan. The crux of Mr. Gunderson's position is that the function of rendering financial assistance, as conceived and authorized by the Congress to be performed by RFC under the execution and administration of a bipartisan independent board, does not bear any special relationship to any existing Cabinet department. This lending function of RFC, as visualized by Mr. Gunderson, has been and continues to be carried out fairly, impartially, and without discrimination; and it is his fear that these characteristics of the program may, through subjugation to a department head, be subjected to the influence of partisan considerations. He lent his support to the fear expressed repeatedly throughout the hearing that the result of this plan would be a division of authority made worse by the practical impossibility of determining the dividing line between responsibilities of the Board of Directors, on the one hand, and the Secretary of Commerce, on the other hand.

Mr. Eugene Meyer, former Chairman of the Reconstruction Finance Corporation, likewise testified against the plan. Mr. Meyer's position is that transfer of RFC to an executive department and vesting in the Secretary of that department the responsibility for supervising, coordinating, and policy guiding would have the definite effect of placing the Corporation under the control of the Secretary. In identifying himself as the author of the original Reconstruction Finance Corporation Act, Mr. Meyer stated that at that time no consideration whatsoever was given to incorporating RFC in an executive department or in any other agency. It is his view that the argument that, because of its function of making loans for business purposes, RFC should be within the Department of Commerce, is an

excuse only and he directs attention to the many other organizations whose functions are closely related to business and which should also, if the argument is to be consistently adhered to, be placed within the Department of Commerce. Mr. Meyer spoke, too, of the vast financial power of RFC and of the possible political use of that power should the Corporation be placed within any department.

Mr. C. Francis Cocke, president of the First National Exchange Bank, Roanoke, Va., testified against the plan in his capacity as chairman of the committee on Federal legislation of the American Bankers Association. As a preliminary remark, he reiterated a fundamental policy of the American Bankers Association that the Government, through the Reconstruction Finance Corporation or otherwise, should neither lend directly to business nor guarantee or insure such loans made by private financial institutions.

Having stated that policy, Mr. Cocke testified that the American Bankers Association opposes Reorganization Plan No. 24 for a number of reasons, principally that subordination of RFC to the Department of Commerce would result in formulation of its policies by the Secretary of Commerce. Here again, the element of political influence was injected into the testimony. The American Bankers Association commends the constructive program of the Department of Commerce for aiding business through the supplying of technical and trade information and the preparation and distribution of other business aids. The association believes that the Department of Commerce should continue along those lines but should not attempt to invade the field of financing business through undertaking the supervision and direction of an agency engaged primarily in that function.

Mr. Harold V. Amberg, vice president and general counsel of the First National Bank of Chicago, testified against the plan in his capacity as chairman of the committee on Federal relationships, Association of Reserve City Banks. He presented his association's position as being that the lending powers of the Reconstruction Finance Corporation are actually of an emergency nature, but contended that, if the Corporation is to be permitted by the Congress to lend in the banking field in nonemergency times, it should continue as an independent agency. In this respect, the association represents itself as being in harmony with the RFC organizational structure as constituted by the Congress. Mr. Amberg enumerated several reasons for the opposition of his association to Reorganization Plan No. 24, chief among them being the fear that the placing of RFC within any executive department would tend to make permanent the continuance of the Federal Government in the commercial lending field and the repeatedly expressed apprehension that the policies of the Corporation may thereby be subjected to partisan political pressures.

Mr. James L. Dougherty, general counsel of the Reconstruction Finance Corporation, also testified in favor of the resolution against the plan. His testimony dealt essentially with the legal aspects of the proposed transfer, founded principally upon his conception that, under the plan, RFC would cease to be an independent instrumentality of the Government and would become whatever the Secretary of Commerce chose to make it. Mr. Dougherty emphasized the chartering of RFC by the Congress by which, among other things, the struc-

ture of the Corporation's management was exactly prescribed, and propounded his belief that Reorganization Plan No. 24 is nothing less than a new enactment divesting the Corporation's Board of Directors of many of its statutory powers. He directed attention particularly to section 3 (a) of the Reconstruction Finance Corporation Act, as amended, vesting in the Board of Directors the power to determine the necessity for and the character and amount of the Corporation's obligations and expenditures and the manner in which those obligations and expenditures shall be incurred, allowed, paid, and accounted for, without regard to the provisions of any other laws governing the expenditures of public funds, such determinations of the Board to be finally binding upon all other officers of the Government. Mr. Dougherty raised the question as to whether or not those powers would by the plan be vested in the Secretary of Commerce, this being used as an additional illustration of the administrative confusion inevitably to follow from the plan.

TESTIMONY AGAINST SENATE RESOLUTION 290

Witnesses who testified in opposition to the resolution, and thus in favor of Reorganization Plan No. 24, were the Honorable Charles Sawyer, Secretary of Commerce, and Mr. Charles B. Stauffacher, Executive Assistant Director, Bureau of the Budget.

Secretary Sawyer presented two reasons for the transfer of RFC to the Department of Commerce. First, the plan carried out the intent of the Reorganization Act of 1949 by grouping, coordinating, and consolidating agencies and functions according to major purposes; and, second, through such coordination and by the utilization of the lending powers of RFC, provides assistance to the Department of Commerce in its statutory duties of fostering, promoting, and developing industry and commerce, encouraging small business, maintaining the economic stability of the country, and promoting maximum production and employment. The Secretary's position as to the physical aspects of the transfer is that RFC would simply become an agency within the Department of Commerce and would thenceforward be responsible to the Secretary rather than directly to the President but that, nevertheless, the statutory powers and duties of the Corporation and its Board of Directors would be in no way affected. The Secretary, he stated, would not have authority to transfer "staff units or budget items" from RFC elsewhere within the Department.

Secretary Sawyer views the plan as making possible the continuing effective coordination of the policy of RFC with the Government's general policy in the business field. He points out that the nonfinancial Federal programs to promote and foster business are already concentrated in the Department of Commerce and that the financial operations of the Reconstruction Finance Corporation need to be coordinated therewith. The Secretary pointed also to the existing similarity between the nonfinancial advisory assistance that both the Department of Commerce and the RFC are now constantly asked to render to business. The Secretary views the transfer as an opportunity to bring those similar efforts of the two agencies into closer coordination, which would in turn promote greater effectiveness. The Secretary expressed his belief that, in its function of providing financial aid to agriculture, commerce, and industry, the RFC could well profit

from the policy guidance of the Secretary of Commerce, who is the official charged with this general area of public policy in all of its aspects.

In presenting the administration's case for Reorganization Plan No. 24, Mr. Stauffacher stated initially that the plan is designed to group the major services which the Government renders to business under the supervision of the department head whose sphere of responsibility is the fostering, promotion, and development of the foreign and domestic commerce of the United States, this grouping being in direct conformance with one of the precepts of the Reorganization Act of 1949. In this statement, Mr. Stauffacher's testimony closely parallels that of Secretary Sawyer.

Another parallel between the testimony of the two witnesses for the plan is found in Mr. Stauffacher's statement that the grouping of the function of loans to business and the function of supplying economic and trade information and managerial and technical assistance will make possible coordinated administration and thus enable the Government to serve business more effectively.

In further support of the desirability of the transfer of RFC to the Department of Commerce, Mr. Stauffacher reminded the committee that the Corporation still conducts such nonlending business activities as the manufacture of synthetic rubber, the production of abacá, and the operation of the Texas City tin smelter. Transfer of RFC will naturally carry with it the transfer of these business enterprises to the executive department most intimately engaged in the field of business and will facilitate their ultimate disposition.

IMPACT OF REORGANIZATION PLAN NO. 5 OF 1950

Reorganization Plan No. 5 of 1950, which became effective on May 24, transferred, with certain exceptions not here pertinent, to the Secretary of Commerce all functions of all other officers, employees, and agencies of the Department of Commerce and provided that the Secretary could thereafter delegate the performance of any of his functions to any other officer, employee, or agency of the Department as he might determine. The attention of this committee had early been directed to the possible impact which plan No. 5 may have upon the Reconstruction Finance Corporation if plan No. 24, transferring RFC to the Department of Commerce, were permitted to become effective. During the hearings on the plan, fears were expressed by a number of witnesses, including Senator Fulbright, Mr. McCormick and Mr. Dougherty, that plan No. 5 would be prospective in effect and would thereby permit the Secretary of Commerce to reorganize the Corporation as he may wish, transferring its powers elsewhere within the Department and otherwise breaking down its existing organizational structure.

Secretary Sawyer and Mr. Stauffacher presented the opposing view, the latter entering into a prolonged discussion of the effect of plan No. 5. He gave assurance that the functions of the Reconstruction Finance Corporation and of its officers and directors are not transferred to the Secretary of Commerce but retain their present integrity, and that the Secretary of Commerce will have no authority to transfer functions of the Corporation elsewhere within the Department of Commerce.

Notwithstanding the foregoing, the committee felt that a considerable margin of doubt existed as to the possible interrelationship and overlapping effects of plan No. 5 and plan No. 24 and accordingly requested Mr. Stauffacher to obtain an opinion in the matter from the Attorney General of the United States.

The committee has since received through the Bureau of the Budget that opinion, conveying the categorical assurance that plan No. 5 carries no prospective implications and can have no effect whatsoever upon the Reconstruction Finance Corporation should it be placed within the framework of the Department of Commerce. (The text of the opinion is included in this report as appendix B.) In further substantiation of this view, the staff of the committee has consulted at length with the Office of the Legislative Counsel of the Senate, whose opinion coincides with that of the Attorney General.

Thus, although plan No. 24 would subject the Reconstruction Finance Corporation to the supervision, coordination, and policy guidance of the Secretary of Commerce, that authority is personal to the Secretary to be exercised by him alone and not to be delegated to any other officer, employee, or agency of the Department of Commerce. Furthermore, the organizational and functional structure of the Reconstruction Finance Corporation would remain secure and intact, insofar as existing legislation is concerned, and plan No. 24 would be considered a legislative action subsequent to the effectiveness of plan No. 5, which, therefore, would not apply as to RFC. In the absence of further statutory developments and on the basis of the authoritative advice which it has received, this committee emphasizes its reliance on the preservation of the RFC in its present form and expresses its firm opposition to any action leading to the possible disintegration of the Corporation without express sanction of the Congress.

AVAILABILITY OF RECORDS

The hearings on Reorganization Plan No. 24 gave rise to discussion as to the possible effect of the plan on the availability of the records of the Reconstruction Finance Corporation in the event that the Corporation should be permitted to become a part of the Department of Commerce. The apprehension was expressed that, while at the present time the Congress enjoys freedom of access to RFC records, whether in the course of an investigation or otherwise, that freedom might disappear were the Corporation to be placed under the supervision of a Cabinet officer. It is a matter of serious concern that of late the Congress has been encountering ever-increasing difficulty in obtaining records of the executive branch. Although Mr. Stauffacher, in his capacity as spokesman for the administration, gave it as his view that plan No. 24 would be wholly without effect on the availability of RFC records to congressional committees, the committee also requested that the opinion of the Attorney General on that point be obtained.

The committee is now advised through the Bureau of the Budget that the opinion of the Attorney General substantiates the views of Mr. Stauffacher in that, whether the Reconstruction Finance Corporation were to retain its present status or were to become a part of an executive department, it would, nevertheless, be a part of the executive branch of the Government and thus responsible, and pre-

sumably responsive, to the President. It follows, then, that the President can as readily prevent the availability of the Corporation records in one status as in another. Also in concurrence with this opinion is the opinion of the Legislative Counsel of the Senate, who has been consulted in the matter by the staff of this committee. In brief, it may be said that the question of the availability of confidential records of the executive branch of the Government is a matter of Presidential attitude and policy and is in no way dependent upon the physical location of any particular organizational unit of the executive branch. (See appendix B for the views of the Attorney General on this point.)

CONCLUSIONS

Through the media of staff work and the hearings conducted by the committee on June 14 and 15, 1950, efforts have been made to encourage full presentation, by both the proponents and opponents of Reorganization Plan No. 24, of all the factors which might have bearing thereon, whether directly or indirectly. Some of the elements involved in the proposed transfer of the Reconstruction Finance Corporation to the Department of Commerce have been dealt with by the Senate in the consideration of previous reorganization plans, notably in Reorganization Plans No. 7 through No. 13 of 1950. That group of plans pertained to regulatory commissions and, while they were not designed to place those commissions within the framework of any other agency or of any executive department, they did touch profoundly upon the general autonomy of those commissions. The Members of the Senate are well aware of the controversial nature of those seven plans, occasioned primarily because of the fear that any change in the executive and administrative structure of the seven commissions would tend now or ultimately to bring them more firmly within the political influence of the administration in power.

The Reconstruction Finance Corporation is not a regulatory commission nor has it either quasi-judicial or quasi-legislative powers. It is, however, in a position of autonomy wholly analogous to that occupied by the regulatory commissions and there is a further degree of close similarity in that it has been very carefully chartered by the Congress and in that the policies which are the essence of control over its vast lending powers have been repeatedly and in detail prescribed by the Congress. This proprietary attitude of the Congress toward the Reconstruction Finance Corporation was emphasized time after time during the course of the hearings, invariably coupled with the fear that, were the Corporation to be placed within the framework of an executive department, the affinity between the Corporation and the Congress would increasingly become a thing of the past.

Reference has been made elsewhere in this report to the lending powers of RFC, presently subject to a maximum of $3,750,000,000 which may be outstanding at any one time. The history of the Corporation has established beyond reasonable doubt that this tremendous financial power has, since the inception of the Corporation in 1932, been consistenly exercised in a fair, businesslike and impartial manner. The Board itself, under the congressional charter, consists of five persons and must be bipartisan in character. So far as the committee is aware, its policies have been formulated and its decisions executed with a high degree of harmony. While it would be

idle to conclude that political considerations have played no part in the formulation of its policies, the record of the Corporation does provide substantial grounds for the belief that such considerations have had a minimum effect on the Board's decisions.

This reorganization plan would transfer the Reconstruction Finance Corporation to the Department of Commerce where, according to the language of the plan, it would continue to be administered by its own Board of Directors and officers but, nevertheless, "subject to the supervision, coordination, and policy guidance of the Secretary of Commerce." The committee, while taking no position thereon, nevertheless desires to point out that, vague as is the language in the foregoing quotation and possibly because of that very vagueness, the Corporation, together with its officers and Board of Directors, might well find itself soon or late functioning as just another bureau of the Department. The committee's study and the testimony presented at the hearings indicate that there is real basis for the fear that the financial policies of the Corporation would be directly subservient to the will of the Secretary.

Since its founding in 1932, the Reconstruction Finance Corporation has loaned billions of dollars in the promotion of agriculture, commerce, and industry, in the encouragement of small business, in assisting in the maintenance of the economic stability of the country, and in the promotion of maximum employment and production. Admittedly, it has accomplished these things well through the purchase of obligations, through the making of direct loans, and, nonfinancially, through giving expert counsel in managerial and related areas. The committee is impressed with the argument that, by integration of the Corporation with an executive department—that is, with a direct arm of the President—the influence and powers of the Corporation may be directed to the implementation of partisan political programs. Essentially, it is the considered opinion of the committee that this is the crux of the question and is the basic policy issue that must be decided upon by the Senate in accepting or rejecting plan No. 24. The Reconstruction Finance Corporation, together with many other independent or semi-independent instrumentalities of the Government, has been so established within the Government as to preserve its integrity of action as free as may be possible of partisan politics.

Those who would see this plan go into effect emphasize that the Board of Directors of the Corporation would continue to administer its affairs as heretofore, being in no wise affected by the operation of the plan. There has been some attempt to say that the Board could, if it were so inclined, resist the Secretary of Commerce and proceed on its own initiative and in its own independent judgment with respect to policy matters. By the language of the plan, however, it should be pointed out that the Board of Directors will receive instructions in matters of policy from the Secretary of Commerce; it will be supervised by the Secretary of Commerce; and its entire functioning will be subject to coordination with the other programs of the Department of Commerce and, it logically follows, with such other policies as the administration in power may establish.

Proponents of the plan have argued for its acceptance on organizational grounds. Although the plan does not transfer the Reconstruction Finance Corporation to the Department of the Treasury, as

was recommended by the majority of the Hoover Commission, it does conform to the Commission minority recommendation that it be transferred to the Department of Commerce. Further, the plan is in agreement with the oft-repeated recommendation and fundamental policy of the Hoover Commission for reorganizations leading to a decrease in the number of Federal agencies, and it can be said to conform also to the Commission's recommendation for a more orderly grouping together of like functions, although an argument of substance can be made that, in view of the tremendous scope of the Corporation's lending powers and their intimate relation to all phases of the national economy, there is no valid reason for affiliating RFC with the Department of Commerce than with one or more other departments. For example, the Corporation's loans to foster agricultural development might be used as an argument that it should be placed within the Department of Agriculture. Similarly, the close relationship between the RFC and the Federal Reserve Board is readily apparent and, as stated above, the majority of the Hoover Commission recommended that it be placed within the Department of the Treasury. In the view of the committee, all of these things merely serve to stress the wisdom of the Congress in chartering the RFC as an independent agency.

The question before the Senate in considering this plan is only secondarily organizational in nature. The primary issue is that of policy: first, congressional policy; second, RFC policy. This plan is a proposal that the Congress recede from its position as to the organizational structure and location of RFC and, by implication, of all other independent agencies. It is a move to bring the independent agencies located within the executive branch of the Government within the organizational structure of the several executive departments and thus, inevitably, it is a move in the direction of increased subordination of such agencies to the control of the President and of less responsiveness to the Congress. The committee urges the Senate to consider this phase of the plan carefully and suggests that the wisdom of the acceptance by the Congress of such a change in its policy, particularly through the medium of a reorganization plan, should be weighed in passing thereon. Many times since 1932 the organic legislation governing the Reconstruction Finance Corporation has been subjected to change, change in management, change in policy, change in method, and change in financial scope, but these changes have consistently resulted from painstaking study by the Congress and have come about through positive legislation. A reorganization plan may be said to be negative legislation, and the committee is inclined to question the use of such a device in any case carrying the implications of this one involving RFC. At this very time a subcommittee of the Senate Committee on Banking and Currency is conducting a careful investigation of the Corporation looking to the drafting and introduction of such legislation as the committee may consider appropriate. There is good reason to believe that should this reorganization plan be permitted to become effective much, if not all, of the work of that subcommittee will have thereby been nullified.

APPENDIX A

[H. Doc. No. 589, 81st Cong., 2d sess.]

Message From the President of the United States Transmitting Reorganization Plan No. 24 of 1950

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 24 of 1950, prepared in accordance with the Reorganization Act of 1949. The plan transfers the Reconstruction Finance Corporation to the Department of Commerce. The Corporation will continue to be administered by its Board of Directors and officers but subject to the supervision, coordination, and policy guidance of the Secretary of Commerce.

This reorganization plan is an important additional step in simplifying the organization of the executive branch of the Government and also in making more effective the various Government services to business. In my special message of May 5 to the Congress I stressed the necessity of assuring the most effective coordination of Government aids to small and independent businesses. For this reason I recommended that major responsibility for these programs be placed in the Secretary of Commerce. The need for such unified leadership and coordinated direction is no less essential with respect to our general business programs.

Both the business-loan program of the Reconstruction Finance Corporation and the various services to business provided by the Department of Commerce have the same major purpose—the development of American business and industry. Government aid to business may involve loans, loan insurance, economic and trade information, managerial and technical assistance, or a combination of several of these different types of services. If these various services are to be of the greatest benefit to the business community, unified supervision is necessary. Vesting supervision of the Corporation in the Secretary of Commerce will promote consistent policies and coordinated administration for both the financial and nonfinancial services to business.

By grouping in one agency all the principal services to business, the plan follows a pattern of organization which has proved highly successful in the areas of agriculture and housing. Up to 1939 the Farm Credit Administration, the Commodity Credit Corporation, and the Rural Electrification Administration—all of them major agricultural financial programs—were outside the Department of Agriculture. Today, no major agricultural credit programs are outside the Department of Agriculture.

Similarly, most of the major housing programs, including those involving loans and insurance, have been grouped in the Housing and Home Finance Agency. Further, I am transmitting today Reorganization Plans Nos. 22 and 23 of 1950, which carry this policy forward by transferring the Federal National Mortgage Association and loans for factory-built homes to the housing agency.

Only in the business area do we still maintain organizational cleavage between the Government's financial and nonfinancial activities. The reorganization under this plan will produce benefits comparable to those we have already obtained through unified administration of our agricultural and housing programs.

While the primary purpose of the Reconstruction Finance Corporation is to make loans to business enterprises, the Corporation, even after the transfer of its housing functions, will still retain certain functions not directly related to its basic mission. These include the manufacture of synthetic rubber, production of abaca, and operation of the Texas City tin smelter, which are temporary functions. Certain of these activities, particularly rubber, are substantially related to existing programs within the Department of Commerce. It is, therefore, appropriate that they also be transferred along with the Corporation to the Department pending decision as to their ultimate disposition.

The Commission on Organization of the Executive Branch of the Government unanimously recommended that the Reconstruction Finance Corporation should be brought within the departmental structure of the executive branch. The Commission was not unanimous, however, in recommending the department to which the Corporation should be transferred. A majority of the Commissioners favored transfer to the Treasury Department; a minority preferred the Department of Commerce. I have given the Commission's recommendations careful study. In my judgment, the activities of the Corporation are designed primarily to aid business. This is also a basic mission of the Department of Commerce. On the other hand, the Treasury Department has no lending functions with respect to individuals or private corporations. The transfer of the Corporation to the Department of Commerce is consistent with the organization of lending activities for agriculture and housing.

The plan transfers the Reconstruction Finance Corporation as a corporate entity to the Department of Commerce. The Corporation's status within the Department of Commerce will be generally comparable to that of those 35 wholly owned Government corporations which are already within departments or agencies or subject to the supervision of department heads.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 24 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in Reorganization Plan No. 24 may not in itself result in substantial immediate savings. However, the important objective is maximum effectiveness in the administration of our programs to aid the Nation's business. Greater effectiveness in turn will produce indirect savings in terms of the quantity and quality of output in relation to expenditures. An itemization of these savings is not practicable.

The economic health and prosperity of this Nation are dependent upon the continuing growth of business and industry. It is of vital importance that the various Government services which can play a part in promoting such growth make their most effective contribution. I strongly urge acceptance of this plan as a means of accomplishing this objective.

HARRY S. TRUMAN.

THE WHITE HOUSE, *May 9, 1950.*

REORGANIZATION PLAN NO. 24 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

RECONSTRUCTION FINANCE CORPORATION

The Reconstruction Finance Corporation, together with all of its functions, agencies, property, assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, personnel, and records, is hereby transferred to the Department of Commerce, and shall be administered, subject to the supervision, coordination, and policy guidance of the Secretary of Commerce, by the Board of Directors and officers of the Corporation: *Provided*, That the agency, personnel, property, functions and all other matters and affairs transferred by, and all reorganizations effected by, Reorganization Plan No. 22 of 1950 and by Reorganization Plan No. 23 of 1950 are excluded from the scope and effect of this Reorganization Plan No. 24 of 1950 upon the taking effect, respectively, of such Reorganization Plans Nos. 22 and 23.

APPENDIX B

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., June 21, 1950.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Expenditures in the Executive Departments,
United States Senate, Washington 25, D. C.

MY DEAR SENATOR MCCLELLAN: Pursuant to your request made at the hearing of the Senate Committee on Expenditures in the Executive Departments held June 15, 1950, I am forwarding herewith a copy of a letter from the Attorney General expressing his views concerning certain points relating to Reorganization Plan No. 24 of 1950.

Sincerely yours,

F. J. LAWTON, *Director.*

DEPARTMENT OF JUSTICE,
June 20, 1950.

Hon. F. J. LAWTON,
Director, Bureau of the Budget,
Washington, D. C.

DEAR MR. LAWTON: I have your letter of June 17, 1950, with reference to Reorganization Plan No. 24 of 1950, to which you have attached a transcript of the testimony of Mr. Charles B. Stauffacher, Executive Assistant Director of the Bureau of the Budget, before the Senate Committee on Expenditures in the Executive Departments on Thursday, June 15, 1950.

On the pages of the transcript to which you have directed my attention it is noted that the chairman of the committee has requested an expression of views on two points concerning Reorganization Plan No. 24 which are, as you have stated, substantially:

1. The effect, if any, of Reorganization Plan No. 5 of 1950 upon the Reconstruction Finance Corporation and its affairs should Reorganization Plan No. 24 of 1950 become effective.

2. The effect of Reorganization Plan No. 24 of 1950, if any, with respect to the ability of Congress to obtain information concerning, and perhaps to influence the functioning of, the Reconstruction Finance Corporation.

1. The effect of Reorganization Plan No. 5 is to transfer, as of its effective date (May 24, 1950), with the exceptions noted, "all functions of all other officers of the Department of Commerce and all functions of all agencies and employees of such Department" to the Secretary of Commerce. The transfer was that of functions of officers, agencies, and employees within the Department of Commerce on the effective date of plan No. 5. That plan does not provide for any transfer of functions acquired by the Department at a later date.

From a reading of the transcript it appears that some of the committee members are concerned in this matter because Reorganization Plan No. 24 does not contain language excepting the transfer of the Reconstruction Finance Corporation from the effect of Reorganization Plan No. 5, whereas Reorganization Plan No. 5 contained language excepting from its provisions corporations in the Department of Commerce. These committee members seem to have concluded that, in the absence of some such exception, the functions of the Reconstruction Finance Corporation will, upon the taking effect of plan No. 24, become vested in the Secretary of Commerce. In my view, that conclusion is unsound. As stated above, plan No. 5, in transferring functions to the Secretary of Commerce, is not prospective in effect. It does not affect the Reconstruction Finance Corporation because the corporation was not in the Department at the time plan No. 5 took effect. If plan No. 5 had not excepted from its operation the corporations within the Department of Commerce, the functions of those corporations would have passed to the Secretary by operation of the plan. A similar exception for the Reconstruction Finance Corporation, however, is not necessary since the transfer of functions provided for by plan No. 5 will not affect the newly acquired functions of the Department of Commerce under plan No. 24. Plan No. 24 transfers the Reconstruction Finance Corporation to the Department of Commerce, "to be administered * * * by the Board of Directors and officers of the Corporation" or, as the President said in his message submitting the plan, "as a corporate entity * * *." In any event, if there were any inconsistency between plan No. 5 and plan No. 24, the latter plan, which will become effective at a later date, Will, like superseding legislation, prevail.

2. Your statement of point No. 2, taken together with a reading of the transcript, seems to indicate the fear on the part of some membars of the committee that Congress may have less control over the Reconstruction Finance Corporation after the transfer than at present. I am unable to find any language in the plan which substantiates that fear.

The Corporation is at present an agency in the executive branch. Its transfer to the Department of Commerce will not change that status. The Corporation and its functions are the creatures of the Congress and subject to legislative control. That also is not changed by this plan. As explained by the President in his message transmitting the plan, the Reconstruction Finance Corporation's corporate entity will be preserved. "The Corporation's status within the Department of Commerce will be generally comparable to that of those 35 wholly owned Government corporations which are already within departments or agencies or subject to the supervision of department heads." The Corporation is transferred, together with its functions, to be administered "by the Board of Directors and officers of the Corporation." Decisions regarding individual questions of administration will continue to be handled by the Board of Directors after the transfer. The role of the Secretary of Commerce will be one of giving the Reconstruction Finance Corporation "supervision, coordination, and policy guidance." Plan No. 24 furnishes no reason for concluding that the relationships which have been established between the Corporation and the Congress will be disturbed by the provisions of the plan.

Sincerely yours,

PEYTON FORD,
Acting Attorney General.

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Calendar No. 1870

81ST CONGRESS
2D SESSION

S. RES. 290

[Report No. 1868]

IN THE SENATE OF THE UNITED STATES

JUNE 1 (legislative day, MARCH 29), 1950

Mr. FULBRIGHT submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

JUNE 26 (legislative day, JUNE 7), 1950

Reported by Mr. MCCLELLAN, without recommendation

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 24 of 1950 transmitted to Congress by the President on May 9, 1950.

Calendar No. 1870

81ST CONGRESS
2D SESSION

S. RES. 290

[Report No. 1868]

RESOLUTION

Disapproving Reorganization Plan Numbered 24 of 1950.

By Mr. FULBRIGHT

JUNE 1 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

JUNE 26 (legislative day, JUNE 7), 1950
Reported without recommendation

feel that the new section 9 (b) provided in section 1 of this bill would adequately meet this need.

Unfortunately, there are two other provisions of the bill to which I cannot subscribe.

One of these provisions extends additional privileges to Federal workers in certain areas by enabling their participation in partisan political activity restricted to a local or community level. If, as the measure intends, the political privileges of the Federal employees are now to be extended to the field of local partisan politics, there is no valid reason to confine the extension to geographic locations or to areas where the number of Government employees is predominant. If Federal employees are to be allowed to participate completely and actively in the selection of local officials, a move which I endorse, their participation should be permitted on a Nationwide basis.

I feel the obligation to point out that this particular provision, as now worded, might not accomplish what it purports to do. In certain States or localities having so-called party plans, the provision would not represent any extension of rights now held. Where a party plan is in force, a Federal worker could not seek local office on a partisan ticket without supporting all other party candidates, whether for local, State, or national office. If he did support them actively, he would automatically be in violation of the Hatch Act. If he failed to give active support, he could be penalized by removal from the ballot. Thus, it would appear that in such a case the Federal worker gets nothing more than the rights which he already has. To protect the Federal worker in such circumstances against undue pressures to indulge in partisan activities, the Civil Service Commission should be authorized to deny the right to participate in local partisan politics wherever the party plan exists.

The other objectionable provision in this bill relates to the statutory right given congressional committees to obtain records containing testimony or other evidence relevant to charges and allegations of violations of the Hatch Act. This provision represents an encroachment upon the long-recognized prerogative of the Chief Executive to maintain in confidence those papers and documents which, in the public interest, he feels should be so maintained. It has been the position of every President that it is for the Executive to determine what documents and papers in the executive branch should be held confidential. This is entirely consistent with the separation of powers provided by our Constitution. I cannot accept or give my approval to any act of the Congress which would threaten or diminish so preeminently necessary a right of the Chief Executive.

In view of the foregoing considerations, I have felt obliged to withhold my approval of this enactment in its present form. I shall be quite willing to approve a bill which does not contain these two objectionable features, and I urge that the Congress take such action before the close of the present session.

HARRY S. TRUMAN.

THE WHITE HOUSE, *June 30, 1950.*

The SPEAKER. The objections of the President will be spread at large upon the Journal, and without objection the bill and message will be referred to the Committee on House Administration and ordered to be printed.

There was no objection.

REORGANIZATION PLAN NO. 24 OF 1950

Mr. DAWSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 648) disapproving Reorganization Plan No. 24 of 1950; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate continue not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from Michigan [Mr. HOFFMAN] and myself.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. McCORMACK. Mr. Speaker, reserving the right to object, I understand and hope that the 2 hours will not be used?

Mr. DAWSON. I was hoping the same thing. There has been an agreement on that.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The question is on the motion.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution H. Res. 648, with Mr. CHELF in the chair.

The Clerk read the title of the resolution.

By unanimous consent, the first reading of the resolution was dispensed with.

Mr. DAWSON. Mr. Chairman, I yield myself 17 minutes.

Mr. Chairman, the Committee on Expenditures in the Executive Departments, to whom was referred the resolution (H. Res. 648) disapproving Reorganization Plan No. 24 of 1950, having considered the same, report unfavorably thereon, without amendment, and recommend that the resolution do not pass.

Reorganization Plan No. 24 is very short. I will read it:

RECONSTRUCTION FINANCE CORPORATION

The Reconstruction Finance Corporation, together with all of its functions, agencies, property, assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, personnel, and records, is hereby transferred to the Department of Commerce, and shall be administered, subject to the supervision, coordination, and policy guidance of the Secretary of Commerce, by the Board of Directors and officers of the Corporation: *Provided,* That the agency, personnel, property, functions, and all other matters and affairs transferred by, and all reorganizations effected by, Reorganization Plan No. 22 of 1950 and by Reorganization Plan No. 23 of 1950 are excluded from the scope and effect of this Reorganization Plan No. 24 of 1950 upon the taking effect, respectively, of such Reorganization Plans Nos. 22 and 23.

Plans Nos. 22 and 23 had to do with the Reconstruction Finance Corporation. It took certain loaning powers from the Reconstruction Finance Corporation and transferred them to the Housing and Home Finance Agency. This had to do with loans for housing and with loans for building and constructing prefabricated housing. Those functions of the Reconstruction Finance Corporation have already been transferred. No disapproving resolutions have been filed to them and they will become the law as far as this body is concerned. That leaves in the Reconstruction Finance Corporation its lending powers for industry, particularly for small business, together with some minor functions. This plan No. 24 transfers the lending powers of the Reconstruction Finance Corporation to the Department of Commerce. That is where the argument comes in.

To state it simply, should we transfer it to the Department of the Treasury or should we transfer it to the Department of Commerce? The Hoover Commission, by a majority report, recommended that it be transferred to the Department of the Treasury. There was a split vote on that. Of the 12 members of the Hoover Commission, 4 or 5 believed it should be sent to the Department of Commerce. The other seven believed it should have gone to the Treasury Department. The President of the United States, in considering the different recommendations, and in looking at the situation as it now exists, upon the advice of those who counseled him upon this matter, came to the conclusion that the welfare of this Nation could be best served by putting the remains of the Reconstruction Finance Corporation that now exists into the Department of Commerce. The majority of our committee agreed with that transfer.

The Reconstruction Finance Corporation was organized in 1932, when Mr. Hoover was President of the United States. At that time the Congress in its judgment and the then President believed that it should be in the Department of Commerce. When originally formed with all of its various lending agencies then attached to it they believed that it should be put in the Department of Commerce and they put it there. How did it get out of the Department of Commerce? You remember the incident: We had a prospective Secretary of Commerce at that time; I think his name was Mr. Wallace; we had a head of the Reconstruction Finance Corporation; I think his name was Mr. Jones, of Texas. They differed on some important details. Mr. Jones won, and the Reconstruction Finance Corporation was taken out of the Department of Commerce and has been out of it ever since.

On one thing the Hoover Commission was in accord, that this corporation should no longer be left as a separate agency but that it should be in one of the major departments of the executive branch, and the President has taken steps to carry out that recommendation. As I said, he has taken the lending features relative to housing away from Reconstruction Finance Corporation and put them into the Housing Administration in order that that agency that handled major housing details should take care of that function of government that deals with housing. The ability to make loans there was put into the Home and Housing Agency where it should be. Some of the other corporations under the control of the Reconstruction Finance Corporation were put in the Department of Agriculture because those loans came within the general purpose of the Department of Agriculture; and so it is that the remaining part that has to do with business and industry should be placed in that department of the Nation charged with the responsibility of encouraging and promoting business—that is their major purpose—and we take the remaining features of the Reconstruction Finance Corporation that have to do with lending to business, encouraging business, and put them in the department whose major objective is to deal with business. That carries out the same program that was set up in plans and was adopted by this House.

There was some difference of opinion with regard to placing it in the Treasury or the Department of Commerce, and such differences of opinion are an entirely normal thing, but it must be remembered that the Treasury does not lend money to business or to individuals; the Treasury does not lend money to private corporations. This would be a new feature set up in a department none of whose major purposes constituted the purpose for which the Reconstruction Finance Corporation exists. So the logical thing to do is to put it in the Department of Commerce and that is what this plan does; it puts it in the Department of Commerce instead of in the Treasury Department.

That is the only question involved, and I submit that good legislative practice would put it into that department whose main objectives are to carry out the functions that now remain in the Reconstruction Finance Corporation. The issues are clear.

Mr. SABATH. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield to my distinguished friend from Illinois.

Mr. SABATH. I wish to say that the statement of my colleague and the chairman of that great committee is correct, because when I first introduced the Reconstruction Finance Corporation bill creating that organization it was the intention that it should go to the Department of Commerce because the aim was to help small business that suffered so much during the crash of 1929, and the years that followed, 1930, 1931, and 1932; consequently, the resolution and the recommendation of the committee is in the right direction; it belongs to the Department of Commerce.

Mr. DAWSON. I thank the gentleman.

Mr. HERTER. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield to the gentleman from Massachusetts.

Mr. HERTER. As a matter of historic record, I think the gentleman from Illinois is incorrect in regard to the original legislation dealing with the Reconstruction Finance Corporation. It is my recollection that was created under President Hoover's administration and that the first directors were appointed by President Hoover. If the gentleman initiated the legislation on behalf of a Republican President he should be congratulated.

Mr. SABATH. I introduced the first resolution in 1931 creating a lending agency to aid business that was in despair. The House passed the bill, but unfortunately President Hoover vetoed it because he desired an amendment to be inserted whereby the municipalities could not obtain loans unless they were for self-sustaining projects. The bill originally was presented by me and urged by me early in 1931. I had the matter up with Mr. Mellon and Mr. Mills and finally it was passed in 1932 when Hoover was President. But had the bill been passed in 1931 the crash would not have been as great as it finally was.

Mr. HERTER. The gentleman is talking about an amendment to the Reconstruction Finance Corporation Act but the RFC was already in existence prior to that time.

Mr. SABATH. The gentleman is mistaken. The first one was when I introduced my bill. There was no Reconstruction Finance Corporation. But I will say this, I did not call it the Reconstruction Finance Corporation. I called it in my bill the Federal Finance Relief Corporation because I did not want to leave any insinuation as to the reconstruction that the Republicans might indulge in and that there would be any reconstruction, so I called it the Federal Finance Relief Corporation Act.

Mr. DAWSON. Upon this we are agreed, that it was passed in 1932.

Mr. STEFAN. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield to the gentleman from Nebraska.

Mr. STEFAN. I would like to ask two questions. First, will the change result in some economy? Second, has this been recommended by the Hoover Commission?

Mr. DAWSON. It has been recommended by the Hoover Commission.

Mr. STEFAN. It has been?

Mr. DAWSON. Will the gentleman permit me to finish?

Mr. STEFAN. Yes.

Mr. DAWSON. It was recommended by the Hoover Commission that the Reconstruction Finance Corporation be placed in some department of the Government. The President placed certain activities of the Reconstruction Finance Corporation in those departments and agencies, the chief business of which was to carry out the purposes embodied in portions of the Reconstruction Finance Corporation Act. It also recommended that the remainder be put in the Treasury Department. I tried to explain that. That was by a division vote. Five members of that 12-man commission believed it ought to go into the Department of Commerce, but the majority believed it should go to the Treasury Department. In sending his plan down here and in studying both the majority and minority views, the President of the United States believed in light of present circumstances that it ought to be put into the Department of Commerce and that the minority views should be sustained. That is what we in our judgment will have to decide today, whether the remaining functions should go in the Treasury Department or in the Department of Commerce.

Mr. STEFAN. Will the gentleman answer my question on economy? Will it result in economy?

Mr. DAWSON. Efficiency means economy. When a function is efficiently administered it cannot be less economical than a function inefficiently administered. It is the opinion of the Hoover Commission that the functions of the Reconstruction Finance Corporation at present existing in Government is both inefficient and not economical. We believe economy will result.

Mr. HUGH D. SCOTT, JR. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. Certainly.

Mr. HUGH D. SCOTT, JR. I would like to say that I have great respect for the work done by the gentleman's committee and by the gentleman himself, but I would like to ask the gentleman whether he would agree that if a farmer, for example, were to direct me to put the turkeys in the hen house and I put them in the pig pen, would that be a compliance with the directive?

Mr. DAWSON. I would like to suggest this answer. I think if you were the President of the United States that you, when any problem or recommendation came to you, would deal with that recommendation in the light of existing circumstances, and particularly so when there was such a close division as to whether it go one place or not. Then, if in your judgment you believe that it should go where the minority said, you would to that extent follow the recommendation of the Commission at that time and you would deal with it, whether it would be better to put in the hen house or the turkey house, in the light of existing circumstances.

Mr. HUGH D. SCOTT, JR. Would the gentleman be correct, however, in saying it is in compliance with the directive of the Hoover Commission, if the Hoover Commission recommended it go to the Department of the Treasury and the gentleman's committee recommending it go to the Commerce Department?

Mr. DAWSON. I will say this, that the former President of the United States would not expect the present President of the United States to follow every recommendation, dot every "i" and cross every "t." He would expect for him to assume the responsibility that had been on his shoulders to do the thing now that will be for the best interest of the country.

Mr. HUGH D. SCOTT, JR. I thank the gentleman; he answered my ques-

tion. The recommendation of the Hoover Commisison has not been complied with, but an alternative recommendation has been offered.

Mr. KUNKEL. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield.

Mr. KUNKEL. There is one question I would like to ask. The gentleman has been talking about the transference of the remaining functions of the Reconstruction Finance Corporation. Do these functions go to the Department of Commerce, or is the Reconstruction Finance Corporation kept intact and the Corporation transferred over into the control of the Department of Commerce?

Mr. DAWSON. The functions are kept under the Board of Directors, sir, but they work under the guidance of the Secretary of Commerce, in dealing with business. Since it is his duty to promote business it is essential to have it within his Department where he can confer with them, and it seems to me it is much better than putting it into a department which does not have those functions.

Mr. KUNKEL. I agree that it should go to the Department of Commerce, but the corporation is kept intact?

Mr. DAWSON. That is right.

Mr. KUNKEL. What really happens is that it goes back to the same system that existed prior to the change, except that certain functions in Reorganization Plans 22 and 23 have been transferred to the home and housing agency.

Mr. DAWSON. That is right.

Mr. KUNKEL. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(Mr. HOFFMAN of Michigan asked and was given permission to revise and extend his remarks.)

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the situation which confronts the House today demonstrates the unsoundness of the original reorganization act. Here we have a plan, No. 24, which changes the existing law sent down to the Congress. It becomes the law of the land unless within 60 days one House or the other, by a constitutional majority, rejects the plan. Probably there are now not more than 150 Members of the House in the city of Washington. It would require 218 to reject this plan. You see the situation? Anything that the President wants to send down, and the leadership wants to keep from coming up for a vote until it just happens that many of the Members are out of the city, may become a law because a lack of attendance prevents a veto by the House. The reorganization act changes our whole legislative system. But there is no use talking about that because that is the law today.

Then there is another little thing that illustrates how we can be led astray. There is no question but that the country see the need for efficiency and economy in the operations of the Federal Government. The Hoover Commission made its report, and the country is sold on those two ideas that by the adoption of its recommendations we will get efficiency and economy. The President, clever politician that he is, has taken advantage of the situation, and he is just pinning the Hoover label on every nice little political scheme he has in mind and is sending them down here. I think we have had 27 of them, some of them in accord with the Hoover Commission's recommendations and some, like this one, out of step with those recommendations.

The gentleman can talk all he wants to about the minority on the Hoover Commission. There were minority views. I doubt if there is any one question that ever came before that Commission, unless perhaps it was the issue of increasing the salaries of Federal officials and employees, upon which there was not a dissenting opinion of some kind, and there was on this.

The Hoover Commission recommended that if there was to be a change in the housing of the RFC the functions of the Reconstruction Finance Corporation should be transferred to the Department of the Treasury. That is what they recommended. You cannot get away from the record. That was the recommendation. All you need to do is read the recommendations and the report of the task force.

But the Hoover Commission was primarily concerned with delaying any change until the Congress should determine the future of the Reconstruction Finance Corporation. We will assume the Reconstruction Finance Corporation was all right when it came into existence but, like every other Federal agency, it has grown and expanded. Instead of being a sort of throw out a life line organization it has developed into a lending organization. It is now proposed by the President to liberalize the lending program.

Those who have studied governmental operations will reach the conclusion, I believe, that lending is to be construed so that after a while a loan will mean a gift, somewhat similar to our foreign policy. We lent, but after a time we just dropped the term "loan"—for the money we advanced turned out to be a gift.

This is one thing the committee had to say, and we quote from our report:

A subcommittee of the Senate Committee on Banking and Currency, headed by Senator FULBRIGHT—

A Democrat—

already is engaged in a review of the policies and operations of the Reconstruction Finance Corporation as recommended by the Hoover Commission.

The Commission recommended a study of the Reconstruction Finance Corporation and a determination by the Congress of what policy that organization should follow.

Mr. MILLER of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. HOFFMAN of Michigan. I yield.

Mr. MILLER of Nebraska. May I ask if there was any testimony before the committee relative to the citizens' committee that followed the Hoover Commission, as to their recommendations upon the transfer of this agency either to the Department of Commerce of the Treasury Department? I am referring to the citizens committee that is set up, I think, in all the States now, that is making recommendations to Members of Congress relative to this plan.

Mr. HOFFMAN of Michigan. Yes; the citizens committee sent up a witness, Mr. McCormick, and his testimony followed very closely the recommendations of the Hoover Commission. We quote from that report. Both the Hoover Commission and the citizens committee for the Hoover Report have given greater emphasis to the Commission's recommendations for a review by Congress of the operations and policies of the Reconstruction Finance Corporation than to the question of its location.

The minority of the committee and the Member of the other body wants the Congress first, before it places this organization any place except where it is now to make a study of what the RFC is doing and to determine the future policy of the RFC.

Mr. KUNKEL. Mr. Chairman, will the gentleman yield?

Mr. HOFFMAN of Michigan. I yield.

Mr. KUNKEL. There was the bill which drastically curtailed the powers of the RFC which was passed by the Eightieth Congress. Does this plan, which the House passed then, and which was reported out by the Committee on Banking and Currency, which we thought did a pretty good job in cutting the RFC back, change that bill?

Mr. HOFFMAN of Michigan. It certainly does. I will read to you from the report on page 16:

The Reconstruction Finance Corporation, at least until a recent period, has maintained, in general, a reputation for conservatism. Excessive liberalization—

I think this answers the gentleman's question—

of its policies would tend to weaken the financial foundation upon which rests not only the Government but the whole economy as well.

Here at least in my judgment is what they are trying to do. First, they are trying to take advantage of the Hoover Commission's recommendation but ignore the recommendation that a study should first be made. But they want to take advantage of the recommendations that if a change is made it should go to the Treasury Department, but they instead want to switch it over to the Commerce Department. Why? Well, you do not need to be a prophet nor the son of a prophet to understand that. The RFC has had and it undoubtedly will have control of billions of dollars. The RFC has placed some restrictions upon the loaning of that money. We all know the RFC has been fairly liberal with Lustron and with Kaiser and some more borrowers. They have lost some money. In one case they lost $37,000,000 in one chunk. They made some loans which, to say the least, are peculiar. It occurs to me it might be well to have a little more conservatism in the operations of that organization when it is dealing with the taxpayers' dollars, especially if we are to get into a war and we are to have to finance the war.

Mr. HUBER. Mr. Chairman, will the gentleman yield?

Mr. HOFFMAN of Michigan. I yield.

Mr. HUBER. Did I hear the gentleman say Gabrielson?

Mr. HOFFMAN of Michigan. No, I was not aware until it came up in committee that any Republican—I do not know how many Republicans there are—can you tell me how many voted in the last election?—there were not quite enough—has borrowed any large sum of RFC.

Mr. HUBER. No, not quite enough.

Mr. HOFFMAN of Michigan. I do not know. But there were not quite enough—not quite. I hear some applause—from the left again. I acknowledge it. I am thankful for it. I appreciate the fact that apparently you approve of something I said because I can only assume you are honest and sincere in applauding and encouraging my remarks.

What they propose to do, Mr. Chairman, is this: The RFC has shown a little independence. If they can just move over that lending agency and liberalize it, and lend the money—and I do not assume they will lend very much of it to Republicans—but lend the money to individuals or corporations which will support the so-called Fair Deal, that will be a wonderful, fine thing for the party in power. If you can just get the control of the Department headed by a gentleman—and I am not talking about the present holder of that position—but if you can just get control of the lending of these billions of dollars and get that into the political channel—you see what it means? In addition to all the special favors granted to labor and to others—first to this group and then to that—now, if you can get the businessman and make them dependent for their existence upon the administration, because the holder of a mortgage always has quite a little control over the borrower—you have almost insured, have almost made certain the return of a Democratic Congress. I would not mention Members of the other body who may be able to go to the source and apply for and advise as to loans to be made to influential people who take an interest in politics in their own districts.

Mr. SABATH. Will the gentleman yield?

Mr. HOFFMAN of Michigan. I yield.

Mr. SABATH. The gentleman stated that only loans will be made to Democrats. Does not the gentleman know the biggest loan was made to a Republican, former Vice President of the United States, Mr. Dawes, amounting to $90,000,000, and I at that time, as one, approved the loan because I thought it might save many of the banks.

Mr. HOFFMAN of Michigan. That loan did save many banks. And the gentleman showed good judgment, because, as I understand, every dollar was paid back and paid back with interest. What is the matter with that? Did not Dawes change his political opinion? Are you quarreling with him about that? Do you think he did not deserve the loan because he did not change his political views? What are you squawking about?

Mr. SABATH. I take exception to the statement that the gentleman said that loans were made only to Democrats. The greatest loans were made to Republicans and the record will bear me out, and the largest one was to Dawes, $90,000,000, and it took 14 years before it was paid back.

Mr. HOFFMAN of Michigan. Well, they showed good sense, because they got all their money back and with interest. In the Lustron loan you lost something like $37,000,000. Does anyone contend for a moment that you have not used every power within your control to force people into accepting your political philosophy? Attempted recently to silence Congressmen who were critical of the administration? Oh, I know you were educated in the Chicago school of politics.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

Mr. HOFFMAN of Michigan. I yield myself two additional minutes until I tell him about Chicago, and how they operate over there. They operate on a cash basis. I know some precinct committeemen that you got over by favors. That is all right with me, but what I object to your doing now is taking this money of the taxpayers and, under the guise of helping businessmen, shall I say seduce them into going along in support of your party? What you are trying to do here is what you have done in other instances, purchase votes by the distribution of taxpayers' money. If you want to get political on it, I call your attention to the report of a committee of the other body, where they reported that in Texas Federal money appropriated for relief was used to purchase votes, and that the same thing occurred in Kentucky. Now that is the record, if you want it. I realize that we do not have enough here to put this through, but I do not propose to let the plan become law without voicing protest against using again Federal funds to assure a continuance of your party in power.

But now back to plan 24, permit me to read the report of the minority. It is signed by all Republican members of the committee:

Reorganization Plan No. 24 of 1950, transferring the now independent Reconstruction Finance Corporation to the Department of Commerce, is in conflict with a recommendation of the Commission on Organization of the Executive Branch of the Government, which proposed to place it in the Treasury Department.

The plan raises issues broader than those relating to efficient organization. It is part of the administration program for what may prove to be a dangerous relaxation of credit policies.

Decision on the proper location of the RFC in the Government structure should be deferred until there is opportunity for more complete consideration of pending legislative measures before other committees. Time also should be given for a comprehensive review by the Congress of policies and operations of this Corporation, which was the major recommendation of the Hoover Commission with respect to it.

The plan should be rejected by approval by the House of Representatives of House Resolution 648.

TERMS OF PLAN

Reorganization Plan No. 24 consists of a single paragraph, the implications of which are far reaching.

It provides that the Reconstruction Finance Corporation, together with all of its functions, agencies, property, assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, personnel, and records, shall be transferred to the Department of Commerce.

The Corporation would continue to be administered by its Board of Directors but—"subject to the supervision, coordination, and policy guidance of the Secretary of Commerce."

Excluded from the scope and effect of the plan are functions relating to housing which are to be transferred to the Housing and Home Finance Agency under Reorganization Plans Nos. 22 and 23, also pending.

ATTITUDE OF HOOVER CITIZENS COMMITTEE

Mr. Robert L. L. McCormick, research director for the Citizens Committee for the Hoover Report, testified that his group could not support Reorganization Plan No. 24 because of its divergence from the recommendations of the Hoover Commission.

The attitude of this group, which is widely representative of a very strong public sentiment favoring adoption of the reorganization program of the Hoover Commission, is that plan No. 24 should not be allowed to become effective until there is a complete congressional review of the policies and operations of the Corporation.

RECOMMENDATIONS OF THE HOOVER COMMISSION

The Hoover Commission in its report, General Management of the Executive Branch, held that there are an excessive number of departments, administrations, agencies, boards, and commissions engaged in executive work which report directly to the President, if they report to anyone. In its recommendation No. 17 in this report, the Commission proposed that 65 present departments and agencies be consolidated into about one-third that number.

Recommendation No. 12 in the same report was that "the numerous agencies of the executive branch must be grouped into departments as nearly as possible by major purposes in order to give a coherent mission to each department." The Commission added that "by placing functions cheek-by-jowl the overlaps can be eliminated, and, of even greater importance, coordinated policies can be developed."

The Hoover Commission in its report on the Treasury Department pointed out that the Reconstruction Finance Corporation, the Export-Import Bank, and the Federal Deposit Insurance Corporation are independent agencies reporting directly to the President, that the President cannot give the time necessary for their supervision, and that, practically, they are accountable to nobody.

The Commission in its recommendation No. 3 in that report proposed that supervision of the operations of these agencies be vested in the Secretary of the Treasury.

With respect to the Reconstruction Finance Corporation, the Commission expressed its belief that "the operations of this Corporation, on which we make recommendations in our report on Federal business enterprises, should be placed in the Treasury Department with general responsibility for its supervision vested in the Secretary."

The major recommendations of the Commission with respect to the RFC appear in the report on Federal business enterprises.

Recommendation No. 18 of that report was that the Congress review the Reconstruction Finance Corporation in accord with recommendation No. 8 in the same report relating to lending policies of all corporations.

Recommendation No. 8 was as follows:

"We recommend (*a*) that the Congress review the power to make loans * * * taking into account the problems of economy, efficiency, and integrity; (*b*) that in nonemergency periods the Congress place restrictions on direct loans in order to insure

that the normal channels of credit are utilized to the maximum extent possible or, alternatively, provide for the guaranty of loans made by private or other established agencies."

DIRECT LOAN ISSUE

The Hoover Commission in recommending that the Reconstruction Finance Corporation be placed in the Treasury Department appears to have been influenced by its belief that further direct lending by the Government should be curtailed rather than expanded as proposed in the administration's present program.

The Commission had this to say on direct lending:

"Direct lending by the Government to persons or enterprises opens up dangerous possibilities of waste and favoritism to individuals or enterprises. It invites political and private pressure, or even corruption. Emergencies may arise in depression, war, national defense, or disaster which must be met in this way. But direct lending should be absolutely avoided except for emergencies."

The Commission held that no guaranties of loans should be made on terms more liberal than those made on direct loans and that the Government should not engage in direct lending where loans can be obtained from private sources on reasonable terms.

The Commission did not go as far as its task force on lending agencies, which recommended the liquidation of the RFC.

The Commission expressed its own view on this Corporation as follows:

"The Reconstruction Finance Corporation performed a useful and necessary function in the days of the depression and the war. Its life was extended by the Congress on May 25, 1948. The manifest major purpose of that extension was to maintain it as a stand-by agency in case of emergencies. But it still has 31 branch offices and over 3,000 employees.

"This agency is engaged in making direct loans to persons and enterprises, frequently without the participation of private agencies in its risks.

"Our task force strongly recommends the liquidation of this Corporation and the substitution of guaranties by the Government, operating through the Federal Reserve banks, of loans to be made by commercial banks.

"The Commission believes it preferable that the Corporation be reorganized to guarantee loans by commercial banks.

"There may arise cases of needed loans which are not available from private institutions. However, this unavailability, except in the case of emergency or where the national defense is involved, arises from the fact that more than normal risk usually is involved. It may be in the public interest to provide such credit.

"However, the credit of the Government should not be used to obtain lower rates of interest and easier terms than those which private institutions can properly provide."

COORDINATION OF CREDIT AGENCIES

Under the Hoover Commission program, the policies of domestic credit agencies would be coordinated by a National Monetary and Credit Council to be appointed by the President. The Council would be located in the Treasury Department and its chairman would be the Secretary of the Treasury. The various credit and related agencies would be represented on the Council. Its functions in the domestic field would correspond to those of the National Advisory Council on International Monetary and Financial Problems in the foreign field.

By means of the coordinating activities of the proposed National Monetary and Credit Council, the Commission proposed to bring policies of housing credit agencies, which were to be grouped under the Housing and Home Finance Agency, and those of farm credit agencies, which were to remain in the Farm Credit Administration within the Department of Agriculture, into line with those of the Reconstruction Finance Corportation and the Export-Import Bank in the Treasury Department.

The Reconstruction Finance Corporation, the Export-Import Bank, and the Federal Deposit Insurance Corporation were assigned to the Treasury Department under a listing of that Department's responsibilities which include the maintenance of the public credit, advice in the conduct of credit institutions, and supervision of certain others; and the periodic inspection of lending and other agencies in process of liquidation.

PURPOSE OF REORGANIZATION PLAN NO. 24

The President, in his message accompanying Reorganization Plan No. 24, asserted that the activities of the Reconstruction Finance Corporation are designed primarily to aid business, which is the basic mission of the Department of Commerce. He pointed out that a minority of the Hoover Commission favored assignment of the Reconstruction Finance Corporation to the Department of Commerce, the statutory function of which is "to foster, promote, and develop the foreign and domestic commerce."

The President referred to his special message of May 5 on the subject of coordination of Government aids to small and independent business.

The real significance of the reorganization plan becomes apparent upon study of the President's message of May 5 and legislation introduced to effectuate the recommendations of that message.

It is important that the Congress should understand fully the implications of that message in acting upon Reorganization Plan No. 24.

The President in his May 5 message recommended a five point program including, first, insurance of bank loans up to $25,000; second, the chartering of national investment companies; third, broadening of lending powers of the Reconstruction Finance Corporation; fourth, strengthening and improvement of the technical and managerial aids now provided by the Department of Commerce; and, fifth, placing of responsibility for these new programs in the Secretary of Commerce, including transfer of the RFC to his supervision.

With respect to the broadening of the lending powers of the RFC, the President said:

"The Corporation should be permitted to relax its collateral requirements on loans to small businesses, if management abilities and potential earnings of the borrower afford reasonable expectation of repayment. This amendment will merely give the Corporation the same discretion which many bankers already successfully exercise. The Corporation should also be authorized to increase its participation with private banks on such loans. In addition, I again recommend that the present 10-year maximum maturity on all types of business loans be increased to at least 15 years."

PENDING LEGISLATION

The President's recommendations are before the Congress in S. 3625, which is in the hands of the Senate Committee on Banking and Currency, and H. R. 8565 and H. R. 8566, in the House Committee on Banking and Currency. The bill is designated as the Small Business Act of 1950.

Title III of this measure relates to amendments to the Reconstruction Finance Corporation Act.

One of the principal proposed amendments would insert the following among present statutory lending powers of the Reconstruction Finance Corporation:

"To make loans to any small-business enterprise (as determined pursuant to section 603 of the Small Business Act of 1950, and the classifications established thereunder) which is a worthy credit risk but does not have adequate collateral, either directly or in cooperation with banks or other lending institutions through agreements to participate or by the purchase of participations, or otherwise, for the purpose of meeting the credit requirements of such business enterprise: *Provided*, That management abilities, potential earnings, and other factors deemed pertinent by the Corporation afford a reasonable expectation that the loan will be repaid."

Section 603, referred to in the proposed amendment, authorizes the Secretary of Commerce to establish such classifications of business enterprises as he deems appropriate. The criteria to be considered in establishing such classifications include the relative size and importance of businesses in an industry, the competitive circumstances and degree of independence, and such other factors as may be appropriate.

The proposed legislation is very broad and raises many highly controversial issues. Members of Congress should realize that approval of Reorganization Plan No. 24 is intended as a part of a movement for liberalization of the credit policies of the Reconstruction Finance Corporation in a manner contrary to its traditions.

If the entire legislative program is approved, we may expect scandals in RFC lending which would cause the cases which have been subjects of recent public discussion to pale into insignificance.

Liberalization of RFC credit policies would mean a reversal of the policies laid down by the Congress in the acts of 1947 and 1948 which provided for reorganization of the wartime Corporation on a peacetime basis. In both of those laws the Congress declared its purpose to curtail rather than expand the activities of the Corporation.

DIVERGENT VIEWS IN JOINT COMMITTEE ON ECONOMIC REPORT

While a subcommittee on investment of the Joint Committee on the Economic Report issued a report in March recommending Government action to provide capital loans and equity capital to small enterprise, a minority of that committee challenged both its statement of facts and conclusions.

The minority was skeptical of proposals for a liberalization of credit and held that the majority had placed too little emphasis on adverse effects of heavy taxation upon all kinds of business.

The minority report, signed by Senator TAFT and Representative HERTER, said:

"In addition to the shortage of equity capital, the small companies have difficulty in borrowing money on any long-term basis. The testimony is conflicting as to whether money is available on a short-time basis from the banks. We are inclined to think that it is available to the extent that the loans are sound, and we question the desirability of the Government stimulating short-term loans which are not sound."

These minority party members held that the principal causes of the disinclination of private investors to invest in common stocks and other forms of equity capital are high tax rates on middle and higher incomes, discrimination against investors in common stocks because of double taxation, and tax difficulties confronted by all business enterprises.

INVESTIGATION BY FULBRIGHT SUBCOMMITTEE

A subcommittee of the Senate Committee on Banking and Currency, headed by Senator FULBRIGHT, already is engaged in a review of the policies and operations of the Reconstruction Finance Corporation as recommended by the Hoover Commission.

Senator FULBRIGHT in testimony before the Senate Committee on Expenditures in the

Executive Departments on Reorganization Plan No. 24 asked for its rejection. He stated that his subcommittee could not complete its work before the effective date of the reorganization plan.

It was Senator FULBRIGHT'S opinion that a decision by the Congress on the future policies of the RFC should precede any action as to its place in the Government structure.

Disclosures before the Fulbright subcommittee have been of such a disturbing character as to provide a warning against further liberalization of lending policies of the Reconstruction Finance Corporation as proposed to accompany its transfer to the Department of Commerce.

INTEGRITY OF GOVERNMENT CREDIT

Maintenance of the integrity of the Government's credit is of fundamental importance to the entire American economy.

It is essential that the lending agencies of the Government should maintain standards on a par with those of private banking. Loose methods could lead to Government bankruptcy in the same way that lax financial policies undermine private banking and business.

Heretofore, agencies with very liberal policies to meet depression or other emergencies have been kept apart from those which have kept their practices on a sound basis.

The Reconstruction Finance Corporation, at least until a recent period, has maintained in general, a reputation for conservatism.

Excessive liberalization of its policies would tend to weaken the financial foundation upon which rests not only the Government but the whole economy as well.

CONCLUSION

The issues which are in the background of Reorganization Plan No. 24 are clearly of such a nature as to call for caution.

It is neither necessary nor desirable to take snap action on this plan without full consideration of related legislative questions. Other committees than those on Expenditures in the Executive Departments in the two Houses of Congress are concerned with these related matters. The status of pending legislation and investigations is such as to preclude any possibility of action on related issues prior to the effective date of Reorganization Plan No. 24.

The Hoover Commission and the Citizens Committee for the Hoover Report have made a convincing showing for the transfer of the Reconstruction Finance Corporation to the Treasury Department rather than to the Department of Commerce, assuming a decision of Congress to chart the Corporation's course along sound lines.

Both the Hoover Commission and the Citizens Committee for the Hoover Report have given greater emphasis to the Commission's recommendation for a review by Congress of operations and policies of the Reconstruction Finance Corporation than to the question of its location.

Such a review should clarify the issues in a manner to facilitate a decision as to whether the Corporation should be placed in the Department of Commerce or the Treasury Department.

Reorganization Plan No. 24 should be rejected by approval by the House of Representatives of House Resolution 648. Nothing will be lost by such rejection. The question can be reopened at a later date after questions of legislative policy have been decided.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. DAWSON. Mr. Chairman, I yield such time as he may desire to the gentleman from Missouri [Mr. KARSTEN].

(Mr. KARSTEN asked and was given permission to revise and extend his remarks.)

Mr. KARSTEN. Mr. Chairman, I rise in support of the President's Reorganization Plan No. 24. I believe we should adopt this plan now.

The statement has been made in some quarters that this plan might conceivably be deferred in its taking effect and operation until present congressional inquiries have been completed. It would be well to point out that this plan goes to the structural and programming activities of this Corporation, and the findings of any congressional group now or later can be carried out as well with the Corporation within the framework of the Department of Commerce as under its present circumstances. Such scrutiny by the Congress from time to time is highly productive and performs a most valuable service, but any examination of the feasibility of continuing corporate lending powers or appraisals of judgment in regard to specific loans is not at issue here. These matters will appertain during the authorized lifetime of any governmental corporation. Each of these inquiries by the Congress has produced one abiding conclusion: This Corporation is left singularly to operate too much on its own.

The Hoover Commission, while acknowledging that the President has over-all direction of the executive branch, realized immediately that his attention and control cannot be of the intensive interest necessary; therefore, they conclude that "practically the RFC is accountable to nobody."

The result of Reorganization Plan No. 24 would be to make the RFC responsible to somebody and would, in effect, seek to place its functions under a major department related by goal, aims, and purpose.

Today we have the opportunity to set in motion the legislation which will accomplish this laudable purpose, by rejecting House Resolution 648, and thereby support Reorganization Plan No. 24 of 1950.

Mr. DAWSON. Mr. Chairman, I yield such time as he may desire to the gentleman from Pennsylvania [Mr. DAVENPORT].

(Mr. DAVENPORT asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. DAVENPORT. Mr. Chairman, in testimonial to the greatness of the American family, I have introduced a resolution calling for the establishment of National Family Day to be honored on the third Sunday in September each year. We set aside a day each year to pay our respects to the mothers of America and another day to honor our fathers. To complete the circle of endearment, I have introduced this resolution so that we may take time each year to consider the importance and the wonders of family life. In the years ahead, the third Sunday in September will take its place in American life as one of our most treasured days.

At a time when the forces of communism test our very national existence, it is the family to which we must turn to preserve the sanctity of our way of life and to show the beleaguered outside world that in the end evil will be vanquished.

No nation can be greater than its families. A nation with weak family ties is a weak nation; a nation with poor families, families with little hope, or disintegrated family life is easy prey to the false promises of communism. The best bulwark against communism is a nation with strong and healthy family ties. American family life must be kept stable and healthy. We must accent our economic and political activities in this direction. National Family Day will serve each famly as a yardstick each year to measure the degree of kinship and joy in such relationships.

If everything is right with the American family, we need have little concern with the future welfare of this great Nation. The family is the social cell; the family is the teacher; the family produces the citizen. Virtue is the basis of good citizenship and where is virtue developed? Only in a good home.

None of us is a creature of the State. The State is our servant. We are born into a family and we spend our formative years in its bosom. The child's entire world is his family and even when he is moving through adolescence, he returns to the family as the fulcrum of his existence. Who would question that the family is most responsible in molding the youth as he stands on the threshold of maturity? Who would question that he is essentially a product of his family. All his tastes, attitudes, temperaments and personalities are shaped by family life. The better the family life, the loftier the individual mind, the more exalted the nation, the better our future.

We honor our mothers on a special day, as we should. Yet it is family life which gives her the basic peace, dignity and security which are her characteristic lot throughout our land. On another special day we honor our fathers. Yet it is their family ties which ennoble and provide a steadying influence upon our men. For both mother and father, family life establishes and develops a deep sense of responsibility and promotes their growth in selflessness, sacrifice, and patience.

We struggle within the most complex economic market place ever known to mankind to provide our families with the essentials of life. And we are happiest when our families are content, secure, and healthy. It is therefore my purpose in introducing this resolution establishing National Family Day that we take time out each year to appreciate this wonderful institution and to think of ways to make it even more extraordinary,

Mr. DAWSON. Mr. Chairman, I yield such time as he may desire to the gentleman from Ohio [Mr. HUBER].

(Mr. HUBER asked and was given permission to revise and extend his remarks.)

Mr. HUBER. Mr. Chairman, it might be well for the better understanding of the circumstances surrounding this legislation to restate briefly the nature and purpose of the agency most affected. January 22, 1932, saw the establishment

of the Reconstruction Finance Corporation. It performed a great service during a severe and dark depression era, and World War II, of recent memory. From time to time its basic legislation has been altered within the orginal act and upon occasion separate statutes have emphasized some phase or other of the Reconstruction Finance Corporation program. This Corporation has proved to be a valuable contribution to the stabilization of our national economy. It has provided the vehicle for the safeguarding of our Nation's banking, insurance, and industrial enterprises.

Generally, the present Reconstruction Finance Corporation is permitted to make loans on adequate security to business enterprises including railroads and other carriers, to banking and financial institutions and public agencies engaged in financing or developing public works or projects, where in such cases credit elsewhere cannot be obtained on reasonable terms. The total Reconstruction Finance Corporation authorization now aggregate $3,880,000,000—with $825,000,000 to be employed for business loans; $200,000,000 for public agency loans; $40,000,000 for catastrophe loans; $15,000,000 for insurance loans; the greater share of the total, $2,750,000,000 goes to the Federal National Mortgage Association, and there is $50,000,000 for prefabricated-housing loans. These two latter functions and funds are transferred out of Reconstruction Finance Corporation by Reorganization Plans No. 22 and 23 of 1950, respectively.

An evaluation of the mission of this organization gives the membership an opportunity to bring new policy guidance program and direction to the Reconstruction Finance Corporation. Reorganization Plan No. 24 is a sincere legislative vehicle which will result in proving in its field a most effective element in our business life.

Mr. DAWSON. Mr. Chairman, I yield such time as he may desire to the gentleman from New York [Mr. TAURIELLO].

(Mr. TAURIELLO asked and was given permission to revise and extend his remarks.)

Mr. TAURIELLO. Mr. Chairman, as a former examiner with the RFC in the Buffalo district, I rise to support this reorganization plan.

Mr. Chairman, one of the basic recommendations of the Hoover Commission in their examination of the executive branch of our Government took the form that the total of our executive agencies should be reduced to approximately one-third of their present number. In order to effectively carry this out, it becomes necessary to consider the grouping and fusion of related agencies, and the various missions which have been created for the major departments. Reorganization Plan No. 24 is an important step in this direction. It seeks to place a function important in our economy, that is, the lending function or power to loan money to our business world when funds from private credit sources are not available at reasonable terms. Commerce Department concerns itself with our business life; the Reconstruction Finance Corporation concerns itself with lending for the fostering and development of our business life. The purpose of both these organizations are inextricably interwoven. Lending is a concomtant of our business life; it is the blood of our business veins. Successful adoption of this plan will be a recognition of the joint role played by these two important forces.

If we are to succeed in reducing the size of our executive structure for the promotion of simpler government, a plan of this nature for these functions and many more like them throughout the length and breath of the executive branch must be evolved, presented to the House and successfully enacted.

Mr. DAWSON. Mr. Chairman, I yield such time as he may desire to the gentleman from West Virginia [Mr. BURNSIDE].

(Mr. BURNSIDE asked and was given permission to revise and extend his remarks.)

Mr. BURNSIDE. Mr. Chairman, I rise in support of this reorganization plan.

Mr. Chairman, this transfer, which proposes to place the Reconstruction Finance Corporation in the Department of Commerce, would result in the Secretary of Commerce having a realm of interest in its supervision, coordination, and policy guidance. It would be interesting for the membership to know the testimony of the Honorable Charles Sawyer, Secretary of Commerce, in this regard. In his unequivocal endorsement of this transfer he had this to say:

> You may wish me to indicate for you how I, as Secretary of Commerce, would approach my new responsibility of guiding the Reconstruction Finance Corporation in matters of policy.
>
> The Reconstruction Finance Corporation Act of 1948 authorizes the Corporation to make loans and purchase obligations in order "to aid in financing agriculture, commerce, and industry, to encourage small business, to help in maintaining the economic stability of the country, and to assist in promoting maximum employment and production." The intent of this language seems clear to me. For it to be translated into practical policy, however, requires that the Corporation's board know the facts concerning a very wide range of business and economic activity. It must know where its aid in financing commerce and industry is most needed. It must know what is to be regarded as small business. It must know in what areas or industries small business is in need of aid. It must have some solid basis for judging how loans can be made most effective in promoting maximum production and employment.

Secretary Sawyer added:

> I am convinced * * * that such guidance is most appropriately furnished by the official who is charged with precisely this general area of public policy in all its aspects, nonfinancial as well as financial, and statistical and analytical as well as operating.

In these words we have the proposition presented that the interchange of information and coordination of programing can lend better direction, improved service, and economy.

Mr. DAWSON. Mr. Chairman, I yield 15 minutes to the gentleman from California [Mr. HOLIFIELD].

Mr. HOLIFIELD. Mr. Chairman, I may not need to use the 15 minutes, and I want to approach this question entirely frankly without indulging in partisanship, Democrats versus Republicans. I am not criticizing anything that happened before; I just want to make a few remarks about the President's plan.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield.

Mr. HOFFMAN of Michigan. In reply to what the gentleman said about not getting politics into it, if the gentleman will recall, I never mentioned politics until the chairman mentioned Mr. Gabrielson.

Mr. HOLIFIELD. I am sure the gentleman had no intention of referring to politics.

In the consideration of the Hoover Commission recommendations we just cannot pick out one recommendation and eliminate or ignore the other recommendations. There is bound to be a diversity of opinion as to just how closely any piece of legislation, whether it be substantive legislation or a Presidential plan, conforms to the all-over Hoover recommendations when you consider them together.

Let me say at the outset that this plan 24 does not conform 100 percent to the Hoover Commission recommendation, because one of the recommendations of the Hoover Commission was that the RFC should go into the Treasury. I want to show, however, where it does conform to other recommendations of the Hoover Commission which are more important than the final location of the RFC itself. In the first place, one of the major purposes of the Hoover Commission was to eliminate as many independent bureaus and agencies as possible, and there were about 67 of them, which reported directly to the President, and consolidate them in the executive departments, give them departmental status, put them where they should be in relation to the functions of the particular executive department. So in the placing of this particular independent corporation, the RFC, the President and his advisers had to consider that; and they also had to consider the placing of the Corporation in a department according to major purpose.

Plan 22 of the President's plans transferred 75 percent of the RFC functions, in terms of statutory authorization, over to the Housing and Home Finance Agency. About $2,750,000,000 of the $3,880,000,000 was transferred to the Housing and Home Finance Agency. For what purpose? For the major purpose of implementing the housing program. The Reconstruction Finance Corporation, therefore, was not looked upon as a major purpose; it was looked upon as an enabling corporation to enable other major departments and major projects to function better in the Government. So the part that had to do with implementation of the housing program was sent over to the Housing and Home Finance Agency.

Plan No. 23 sent over the prefabrication financing also to the Housing and Home Finance Agency, because it had to be there to do the job of housing. This left approximately 25 percent of the original Reconstruction Finance Corporation, and in that category was em-

braced about $800,000,000 of loans to business. That was the second large piece of the RFC.

Where should that go? Should it go to Treasury just because dollars are involved? No, it should not go to Treasusy; it should go to the place where it could be used for the major purpose for which it has already been used, which is loans to business.

Where is the executive department whose major function is the promotion of business? We know that is the Department of Commerce. Therefore, this second large piece of the RFC was transferred to Commerce, and there it is to perform part of the major function which is to promote and cause business to prosper.

A few other items, such as authorization of $75,000,000, loans to insurance companies, were also put there, as well as about $40,000,000 in so-called catastrophe loans to different areas where flood damage and other great damage had occurred. Those also went to Commerce. That was the tail end, you might say, of RFC.

So in the sending of the $800,000,000 part of the RFC and the $75,000,000 and the $40,000,000 you were sending it to the place where it should be sent according to the major purpose of the Hoover Commission, because you had to make the decision as to whether lending is a major purpose of Government or whether financing is a tool for the departments of Government to use to accomplish their major purpose. That in a nutshell is the reason why Commerce was chosen in place of Treasury.

Mr. HAND. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from New Jersey.

Mr. HAND. Would the gentleman inform the committee who the members of the Hoover Commission were who voted on this subject?

Mr. HOLIFIELD. Seven members of the Hoover Commission, a majority, voted to send it to Treasury.

Mr. HAND. The gentleman from Illinois told us that. I mean the personnel.

Mr. HOLIFIELD. I do not think I have that, but I will place it in the RECORD with my remarks.

I want to point out something which is very important, and that is that the gentleman from Michigan [Mr. HOFFMAN] is opposed to all of these plans. He undoubtedly would have been opposed to this plan had it been given to Treasury because he is against the Reorganization Act.

Another thing I want to point out is that the function of RFC is not changed. RFC still is to be administered by the board of the RFC and not by the Secretary of Commerce. It still has to be administered according to the policies set forth by the Congress during the Eightieth Congress because that was the last time the RFC Act was amended. So that is not changed. The Eightieth Congress made certain limitations on the RFC and extended its life to 1954 so far as lending purposes were concerned. Had the Congress at that time wanted to do away with RFC it would have done away with RFC; but it recognized that RFC had a legitimate function to perform. So the Congress extended the life of that agency.

Mr. CURTIS. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Nebraska.

Mr. CURTIS. How much money will be saved by this proposal?

Mr. HOLIFIELD. That is a question which it is impossible to determine. The same answer is applicable to every piece of legislation which we passed in relation to the Hoover Commission recommendations, whether it be in the form of substantive legislation or in the form of a Presidential plan. The President is required by the Reorganization Act to say that it will save money, but he is not required to say how much. I do not think the President or any of us can judge until it is put into effect how much it will save. But this plan is following the grouping according to major purpose, it is eliminating the small, indepndt corporations and putting them into executive departments. It is placing the Reconstruction Finance Corporation in an executive department, although it is put in a different department. I hope the gentleman remembers that conditions have changed since the original Hoover Commission made its recommendation. Conditions have changed, and 75 percent of the RFC is being transferred to the Housing and Home Finance Agency by plans 22 and 23, so what is left is being transferred to the place where it will do its duty as an enabling tool to the Department of Commerce, whose purpose is to foster and promote business.

Mr. CURTIS. Was there any evidence offered on the subject as to how much it might save?

Mr. HOLIFIELD. In terms of actual dollars, no; there has been no definite testimony offered on any of the bills. There have been rough estimates, but I assure you they are rough, because in the administration of legislation and plans based on the Hoover Commission recommendation, the administration itself will have to develop those savings. We have been given a rough estimate that there will be approximately $3,000,000,000 saved, and I am talking about all the recommendations.

Mr. CURTIS. How much have they saved to date?

Mr. HOLIFIELD. Well, we have not had a fiscal year as yet under even part of the plan.

Mr. CURTIS. How many employees have been let out by reason of what has been adopted?

Mr. HOLIFIELD. I cannot answer that.

Mr. CURTIS. Any?

Mr. HOLIFIELD. I have no knowledge.

Mr. CURTIS. Have any?

Mr. HOLIFIELD. I think some have been let out and some have been hired.

Mr. CURTIS. Well, do we have more or less?

Mr. HOLIFIELD. I could not give the gentleman that answer.

Mr. CURTIS. Well, do we have any more agencies now?

Mr. HOLIFIELD. We have many less. Let me put it this way: We have grouped the agencies together according to major purposes, and there are less independent agencies reporting to the President.

Mr. CURTIS. The agencies are still there?

Mr. HOLIFIELD. The agencies are still there, and the Hoover Commission did not recommend that the agencies be abolished.

Mr. CURTIS. Have you created any new agencies?

Mr. HOLIFIELD. No.

Mr. CURTIS. The general service agency was not a new one?

Mr. HOLIFIELD. No. It was a consolidation of existing agencies. Let me be very fair. My friend, the gentleman from Michigan, says that it is a new agency. If he considers putting seven or eight agencies together into one group and calling it a new agency, that is a new agency.

Mr. CURTIS. What happened to the personnel in that move? Do you have more or less than when you started?

Mr. HOLIFIELD. I cannot answer that question. Being very frank, I think we have more at the present time in the General Services Administration than we had before, because the Hoover Commission put upon the General Services Administration additional duties.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Michigan.

Mr. HOFFMAN of Michigan. While I was out of the Chamber answering a telephone call I was advised that the gentleman from California made the statement that I was opposed to the original reorganization bill giving the President authority to send down plans. The gentleman is correct in that; I was opposed, because I did not want to make it possible for the President to get legislation through unless one House or the other exercised its veto power. I also understand the gentleman made the statement that I had opposed the Hoover Commission recommendations. I am sure the gentleman does not mean that because he must know, sitting on the committee, that I do not oppose all those.

Mr. HOLIFIELD. I said that as far as I knew, the gentleman had opposed all of the Presidential plans.

Mr. HOFFMAN of Michigan. Oh, no.

Mr. HOLIFIELD. If am wrong, will the gentleman tell me which plan he supported?

Mr. HOFFMAN of Michigan. All those that have gone through without objection. I did not oppose those. How many have gone through? A dozen or more.

Mr. HOLIFIELD. The gentleman spoke against every one of them.

Mr. HOFFMAN of Michigan. No. We have not even had a vote on some of them.

Mr. HOLIFIELD. Any Presidential plan that has been brought to the floor of this House I say that the gentleman

from Michigan has spoken against, and I believe the RECORD will bear me out.

Mr. HOFFMAN of Michigan. That might be, but the gentleman says nothing about the plans that I am not opposed to. The gentleman only has a half truth in there.

Mr. HOLIFIELD. I apologize if I said "half truth," because I believe the gentleman is sincere and I do not want to put him in the wrong light.

Mr. HOFFMAN of Michigan. There are several of these plans, and maybe what I should have done is to have introduced a resolution, which I did not do. I am sure the gentleman knows me well enough to know that, being here practically all the time and seldom missing a roll call, as the gentleman is fully aware, I would have introduced a resolution to disapprove of the plan if I had been against it.

Mr. HOLIFIELD. The gentleman's logic is unanswerable and his service to his people in their opinion no doubt is unparalleled.

So, Mr. Chairman, I believe the argument as to where this agency should go has been determined by the change of events and by the logic of dividing up this facility and placing it where it will accomplish the major purposes of the different departments where it is being sent.

As to the policy of the Reconstruction Finance Corporation, as to whether it makes loans to Democratic or Republicans or whether it makes loans on prefabricated housing or loans to insurance companies, or makes catastrophe loans or housing loans, that has not been changed and will not be changed by the transfer that is contemplated here. If that has to be changed, it will be the job of the Congress to change it. The functions of the Reconstruction Finance Corporation still remain under its Board of Directors and will continue as the law which is now written requires.

Mr. STEFAN. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Nebraska.

Mr. STEFAN. The gentleman says it will be under the Board of Governors. Will they be responsible to the Secretary of Commerce?

Mr. HOLIFIELD. They will be responsible to the Secretary of Commerce as far as guidance and as far as reports are concerned, but as far as carrying out the basic function of the Reconstruction Act is concerned they will not. For instance, the Congress in the last amendment, I believe it was the 1948 amendment, put in a clause which said that the Reconstruction Finance Corporation should foster loans to small business. It would be, in my opinion, within the category of the power of the Secretary of Commerce to advise the acting Board that he wanted small-business loans, he wanted that particular expressed will of Congress carried out if the Reconstruction Finance Corporation Board was not carrying it out, but he would not say to the Board, "You shall loan to A, B, C, or D."

Mr. STEFAN. Would the Secretary have veto power over any decision of the Board of Governors?

Mr. HOLIFIELD. No, in my opinion he would not have any veto power. The basic Reconstruction Finance Corporation law gives that to its Board of Directors.

Mr. STEFAN. It would be really another division in the Department of Commerce, would it not?

Mr. HOLIFIELD. Yes, in effect it would be one of the subdepartments of the Department of Commerce.

Mr. STEFAN. Would the relationship of the Secretary of Commerce be similar to his present relationship to the Patent Office, the Bureau of Standards, the Weather Bureau, the Bureau of the Census, and so on?

Mr. HOLIFIELD. It would not be identical, because the plan itself provides that the Secretary of Commerce shall have guidance, and that the Board of Directors shall execute the policy expressed by Congress in the Reconstruction Finance Corporation Act.

Mr. DAWSON. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Illinois.

Mr. DAWSON. I think the words of the Secretary will answer the gentleman's question. He testified before our committee:

> You may wish me to indicate for you how I, as Secretary of Commerce, would approach my new responsibility of guiding the Reconstruction Finance Corporation in matters of policy.
>
> The Reconstruction Finance Corporation Act of 1948 authorizes the Corporation to make loans and purchase obligations in order "to aid in financing agriculture, commerce, and industry, to encourage small business, to help in maintaining the economic stability of the country, and to assist in promoting maximum employment and production." The intent of this language seems clear to me. For it to be translated into practical policy, however, requires that the Corporation's Board know the facts concerning a very wide range of business and economic activity. It must know where its aids in financing commerce and industry is most needed. It must know what is to be regarded as small business. It must know in what areas or industries small business is in need of aid. It must have some solid basis for judging how loans can be made most effective in promoting maximum production and employment.

Secretary Sawyer added:

> I am convinced * * * that such guidance is most appropriately furnished by the official who is charged with precisely this general area of public policy in all its aspects, nonfinancial as well as financial, and statistical and analytical as well as operating.

Mr. STEFAN. Does that statement by Mr. Sawyer mean putting the RFC in the Department of Commerce as a division of that Department and that it will integrate the RFC with the operations of foreign and domestic commerce and the Department of Commerce field offices and other divisions of the Department?

Mr. HOLIFIELD. If I may answer the gentleman, it will be grouping together the aids to business. One of the aids is financing. Other aids are advice and statistics which the Department of Commerce gives to business. Those would be grouped together into one major executive department.

Mr. STEFAN. Will it then result in some reorganization of the various divisions of the Department of Commerce?

Mr. DAWSON. No.

Mr. HOLIFIELD. I would not think so. I think it would merely place the tool which they need to function that much closer in a closer interrelationship.

Mr. STEFAN. Should there be some duplication on the part of the RFC concerning research in small business, which they get through the field offices of the Department of Commerce and through the Census, and other divisions, would it be possible for them to secure some of the employees in their division and eliminate the duplications in the RFC?

Mr. HOLIFIELD. Certainly the major purpose of the Hoover Commission's recommendations is to place these functions together so that one man will be responsible for seeing where they overlap and duplicate and he is required to eliminate that duplication and overlapping of function.

Mr. STEFAN. Is that not the answer to the possibility of efficiency and economy in order to eliminate that duplication? So there would be some separation from the payrolls of employees who are operating in duplication activities?

Mr. HOLIFIELD. Yes, sir; I think the President brought out in his message that would be one of the fields where savings could be made. However, he was unable to say how much.

Mr. STEFAN. Yes, but the Secretary has no control under a veto power of the action of the Governors in making loans.

Mr. HOLIFIELD. No, sir; absolutely none, and he so testified.

Mr. BROWN of Georgia. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield.

Mr. BROWN of Georgia. We have an agency known as Fannie May, which is part of the Reconstruction Finance Corporation, which is officered by people who work with the RFC. What becomes of the jurisdiction of Fannie May to buy and sell GI securities?

Fannie May is organized for the purpose of creating a secondary market for the GI loans. What becomes of Fannie May?

Mr. HOLIFIELD. I am glad the gentleman asked that question, because I know how interested he is in secondary mortgages financing questions in the Committee on Banking and Currency of which he is a distinguished member. Under plan No. 22, $2,750,000,000 of authorizations which is in the Federal National Mortgage Association at this time, goes over to the Housing and Home Finance Agency. That was the point I made, that 75 percent of RFC has been transferred to the agency by plan No. 22, but the functions of FNMA are not changed and will be changed only by action of the gentleman's committee.

Mr. BROWN of Georgia. But you are undertaking to make a banking institution of the Housing Administration

when it is not supposed to be a bank. The purpose of Fannie May is to buy and sell securities.

Mr. HOLIFIELD. That is true.

Mr. BROWN of Georgia. For that reason it ought to be in the RFC, because that is a financial institution working with the banks. Therefore, it ought not to be separated. One agency builds homes, and all they do is to market the loans. They do not make the loans. You are transferring the banking activities of the RFC over into General Housing.

Mr. HOLIFIELD. But we are not now discussing that particular plan.

Mr. BROWN of Georgia. I understand that.

Mr. HOLIFIELD. That plan would have to rest on its own merits. Probably that plan will come before the Congress. However, I will give the gentleman the reasoning on that transfer, without taking any position on it myself. The reasoning was that the major purpose of housing was to be located in the Housing and Home Finance Agency.

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. DAWSON. Mr. Chairman, I yield the gentleman two additional minutes.

Mr. HOLIFIELD. And that the financing of these houses was not the major purpose of government, but was an incidental purpose to the accomplishment of building the houses. Therefore, it was put in the agency which the Congress said had the major purpose of creating housing. That is the reasoning.

Mr. BROWN of Georgia. I know that is the reasoning, but at the same time you have transferred a financial institution over to an agency that is supposed to know nothing about financing or banking. You are putting them in the banking business.

Mr. HOLIFIELD. It will still function according to the FNMA Act.

This resolution before the House is a resolution of disapproval. Therefore, if you want Plan No. 24 you must vote "No" on the resolution of disapproval. In other words, a "no" vote on the resolution to disapprove is a "yes" vote for plan No. 24. I urge you to vote "No."

REORGANIZATION PLAN NO. 24 OF 1950

Reorganization Plan No. 24 of 1950 proposes to transfer the Reconstruction Finance Corporation to the Department of Commerce. This is a simple transfer plan. The change merely places the RFC under the supervision, coordination, and policy guidance of the Secretary of Commerce. The administration of the Corporation's affairs, as such, is not affected. The corporate entity of the RFC is preserved intact. The plan states that the RFC "shall be administered, subject to the supervision, coordination, and policy guidance of the Secretary of Commerce, by the Board of Directors and officers of the Corporation."

I emphasize the words "shall be administered by the Board of Directors and officers of the Corporation." Opponents of this plan have contended—and contended wrongly—that the Secretary of Commerce might assign RFC functions to other officers or units in the Department of Commerce and break up the corporate structure of the RFC. These opponents cite Reorganization Plan No. 5 of 1950 which, as you will recall, centered authority and responsibility in the Secretary of Commerce to organize and administer the affairs of his Department. The legal relationship between the earlier plan—No. 5—and the present plan—No. 24—should be clearly understood. The later plan qualifies and limits the earlier one.

The functions of RFC and its officers are being transferred not to the Secretary but to the Department of Commerce. The Corporation is being transferred as an entity, and the functions remain wihin it. Its status within the Department under Reorganization Plan No. 24 will be generally analogous to that of 35 other wholly owned Government corporations now within departments or agencies or subject to the supervision of department heads.

The Attorney General has rendered a legal opinion to the effect that plan No. 24, as a later enactment, cannot be altered by prior authority of plan 5.

The justification for Reorganization Plan No. 24 lies in the fact that the primary purpose of the RFC, as defined by Congress, is to engage in lending activities in aid of business. This is part of the larger purpose conferred upon the Department of Commerce by its organic law. Consequently, in line with the Hoover Commission's basic recommendation for grouping similar activities under unified and responsible administrative leadership, the RFC should be placed within the Department of Commerce.

I emphasize again that Reorganization Plan No. 24 would not authorize the Secretary of Commerce to transfer the functions of RFC to other officers and agencies of the Department, nor will the Secretary have a legal right to administer the Corporation or to compel the RFC Board to take a specific action. The function of the Secretary of Commerce will be to supervise, coordinate, and give policy guidance. The Secretary would prescribe, for example, a policy that loans must be made to small business, but he would not and could not direct that particular firm A, B, C, or D should get the loans.

The supervision which the Secretary would exercise over RFC through this plan would mean the right to have something to say about general procedures, their legality, and so forth. Internal management of the RFC would stay with its Board and officers.

The Hoover Commission recommended that the RFC be brought within the structure of the executive departments. There was a difference of opinion among the Commission members as to what Department was most appropriate to contain the RFC. A majority preferred the Treasury; a minority preferred Commerce. The President has taken the position, after careful study, that the purpose of the RFC is clearly to aid domestic business and therefore should be placed within the Department of Commerce. The Treasury does not engage in lending operations to private individuals or corporations. Nor is lending, in the financial sense, a major purpose of government. Loans to business are made for the broader purpose of promoting the development and stability of business. The Department of Commerce now extends various technical and managerial aids to business. Lending should be coordinated with these other services under the supervision of the Secretary of Commerce.

Analogous relationships are to be found in the Department of Agriculture where we have combined financial and nonfinancial activities to serve the broader purposes of agricultural development. Similarly we have brought together financial and nonfinancial activities in the Housing and Home Finance Agency to promote the building of homes. In fact, by several other pending reorganization plans, we will transfer RFC activities in the housing field to the Housing and Home Finance Agency. Thus, the Federal National Mortgage Association, an RFC subsidiary which provides additional sources of credit by maintaining a secondary market for home mortgages through its authority to purchase mortgages on homes and rental housing projects insured by FHA or guaranteed by VA, is to be transferred to the Housing and Home Finance Agency by Reorganization Plan No. 22 of 1950.

Also, the authority of the RFC under the Housing Act of 1948 to make loans or to purchase the obligations of business enterprises engaged in the prefabricated housing industry and in large-scale modernized site construction, is to be transferred to the Housing and Home Finance Agency by Reorganization Plan No. 23 of 1950.

It may be noted that by far the greater part of the RFC's statutory authorizations relate to the Federal National Mortgage Association, which is to be shifted to the central housing agency. RFC authorizations now total $3,880,000,000 of which $2,750,000,000 or about 70 percent are assigned by law to the FNMA.

In considering the appropriateness of the proposed transfer of the RFC to the Department of Commerce, the members may recall that the RFC was once before in the Department of Commerce as a part of the Federal Loan Agency. It was taken out of that Department later for reasons completely unrelated to matters of organization.

Opponents of this plan have tried to rest their case on the Hoover Commission recommendation that the direct lending operations of the RFC be reviewed by the Congress. They want this plan held up or shelved until Congress decides what to do with RFC. To this I say that transfer of the RFC to the Department of Commerce by plan No. 24 does not preclude any subsequent decision of the Congress as to its location and proper scope of duties. Practically every Congress investigates the RFC, and if we wait for a final expression of congressional policy, we will never be able to effect any reorganization in this field. The Eightieth Congress made a comprehensive investigation of RFC and passed laws in 1947 and 1948 regarding its basic

functions. The 1948 law, after extensive investigation by the Senate Banking and Currency Committee pursuant to Senate Resolutions 132 and 208 of the Eightieth Congress, extended the Corporation for 8 years, so presumably the future of RFC is determined to that extent at least.

It is plainly evident, from a reading of the Hoover Commission reports, that the majority of the Commission was opposed to direct lending as a Government policy. Whatever the grounds of their opposition, these Commission members were taking a stand on policy matters not within their proper sphere of jurisdiction. Whether direct lending is good or bad policy, it has nothing to do with matters of organization. Mr. Robert McCormick, executive secretary of the Citizen's Committee for the Hoover report, acknowledged as much in his testimony on plan No. 24 before the Senate Committee on Expenditures.

In any event, I call to your attention the fact that the Congress has many times reviewed the lending and other activities of the RFC. The committee of the Eightieth Congress which reported out the bill to renew and extend the life of RFC said that "there are sound reasons which justify the continuation of RFC on a permanent basis"—Eightieth Congress, second session, Senate Report No. 974, page 5. The committee also declared:

> The committee believes that the public interest will be served by the presence of a Government lending agency to which an applicant who has been declined credit among private sources of credit may go for a reconsideration of his proposal (ibid., p. 7).

And furthermore, that committee of the Eightieth Congress, in reporting out the RFC legislation, emphasized that RFC lending powers should not be hedged in with statutory qualifications and conditions.

The Congress, in 1948, added small business to the lending objectives of RFC and extended the life of that agency until 1956. At any time the Congress can decide to shorten or lengthen that period of RFC life. It can decide to liberalize or to curtail RFC lending operations. Bills are now pending to expand its lending powers. But whatever the Congress may decide to do about RFC's duration or lending policies is not affected in any way by this reorganization plan.

The only matter—an organization matter—which we are asked to settle by this plan is a coordination of financial aids to business with other aids to business rendered by the Department of Commerce.

I urge the Members to reject this disapproving resolution and to support Reorganization Plan No. 24 as a sensible step in the grouping of major Government activities relating to business within the Department of Commerce.

Mr. LOVRE. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. HERTER].

Mr. HERTER. Mr. Chairman, I realize the hour is late and that the Members are perhaps tired of having this matter discussed. However, I do want to say a few words in regard to this disapproval resolution, which I favor, and I hope the Members will vote "yes" when it comes to a vote.

The purpose of any reorganization is either to save money or to shift responsibility to an agency or a person where the responsibility properly belongs. This reorganization plan can, under no circumstances, be said to save money. There was a colloquy a few moments ago which indicated that possibly under the Secretary of Commerce it would be possible to save some money in the RFC. That seems to me absolutely absurd. The very function of the RFC, as the gentleman from Georgia [Mr. BROWN] has just brought out, is essentially a banking function. There is nothing in the Department of Commerce today that has anything to do with banking or credit or the determination of credit facilities. That is an entirely new function and responsibility put into the Department of Commerce, and, obviously, the old existing personnel will have to be kept on. I see no possibility for any saving of money.

The second question involved is whether or not the transfer of responsibility to a new chief is a desired thing. The Hoover Commission report made it clear that there were too many independent agencies, all of which had to report to the President of the United States, thereby overburdening him with too many responsibilities, and that those independent agencies ought to be grouped logically and in accordance with their functions, under a Cabinet officer, whenever possible, or under new agency heads. In this particular case the regrouping that is performed is entirely contrary to the Hoover Commission report. The Hoover Commission reported that three independent agencies of Government— the RFC, the Export-Import Bank, and the Federal Deposit Insurance Corporation—should all three be put under the Secretary of the Treasury. Here we have one taken out of the three and put under the Secretary of Commerce. In other words, the two primary reasons for any reorganization bill are, first, the saving of money, and, second, better organization. It seems to me there is still another reason why we should not act at this time, that this reorganization plan is entirely premature. The Reconstruction Finance Corporation was created as an emergency organization. It served, in my opinion, an extremely useful function in emergencies, during the depression period and then during the war period. It took unto itself a lot of subsidiary corporations, a lot of subsidiary banking and lending operations that were extremely valuable in time of stress. What is intended now, though, is that the Reconstruction Finance Corporation should become a permanent body, as a money-lending agency to private industry in the hands of the Department of Commerce. It seems to me that it is premature to make any such decision as that today.

I happen to be a member of the Committee on the Economic Report that has been studying the question of small businesses' need for capital today. There has not been a suggestion before that committee that the Reconstruction Finance Corporation is the agency to help small business. There have been such suggestions, but all of them have been predicated on what to my mind is a great misapprehension as to the proper way to help small business.

There is no sense in talking partisan politics here, but there is no greater temptation in the world to the playing of partisan politics than to allow the government to make small direct loans to business concerns. That I think has been shown over and over again in the experience of other countries. It is clearly something that in peacetime we should be getting away from in this country. If small business needs aid it is infinitely better that it be given by guaranteeing a part of the loan which has already been made by a private institution than it is to make the loan from the Government direct. I do not think there is a single economist who disagrees with that.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield 10 additional minutes to the gentleman from Massachusetts.

Mr. HERTER. Mr. Chairman, I shall not take all of that time, but I do want to recapitulate. There is absolutely no hurry insofar as this matter is concerned. Let us be frank about it. This is a measure that we have here before us that has got to be examined by both bodies. The other body under the Reorganization Act has before it a disapproving resolution on which it must act within a 60-day period which expires next week.

Mr. HOLIFIELD. Mr. Chairman, will the gentle yield?

Mr. HERTER. I yield.

Mr. HOLIFIELD. In the Eightieth Congress, in Public Law 548 the following language was added to the function of the RFC: "To encourage small business."

Mr. HERTER. I am familiar with that.

Mr. HOLIFIELD. That was placed in the RFC Act at the insistence of the Eightieth Congress. I heartily approved it. As to the policy involved, that is not changed by the plan, as the genteman knows.

Mr. HERTER. Not a bit.

Mr. HOLIFIELD. As to the merit of the policy, that was something that was decided in the Eightieth Congress and has not been changed.

Mr. HERTER. I know that is true; nevertheless, I disagree with it, whether it was done by the Eightieth Congress or any preceding Congress.

Mr. HOLIFIELD. It is not at issue here and I agree with the gentleman that in the making of loans whether it be to small business or to large business, there is always danger of loss, and particularly in connection with RFC operations, because they only lend after the regular private lending institutions have refused to lend because possibly of the long time needed to amortize the loan, or the rate of interest is too high, or for some other reason that makes it unprofitable for a private bank to lend. That has been accepted as one of the necessities for RFC operation.

Mr. HERTER. With the RFC operation, taking into consideration times of

serious depression or times of emergency such as we have been through, I fully approve of its being used as a means of financing certain operations.

Mr. HOLIFIELD. Did the gentleman approve of it in the Eightieth Congress which was not a time of depression?

Mr. HERTER. I cannot recall voting for it at that time. If I did, I am sorry I did insofar as that is the only thing which concerns, I think, all of us who have a natural sympathy and who want to help small business. I think we are likely to do very foolish things because of trying to satisfy that particular desire, though. It is a matter, however, that should be thought through much more carefully. Certainly the implications in this bill, whether the law is changed or not, are that the minute you put it in the Department of Commerce that is the place to go to if you are in business in order to get a hand-out or a loan without any cooperation with private concerns.

Mr. HAND. Mr. Chairman, will the gentleman yield?

Mr. HERTER. I yield to the gentleman from New Jersey.

Mr. HAND. I have been trying to find out how the Hoover Commission voted on this question of whether or not RFC should go to Commerce or to Treasury. The chairman of the committee, the gentleman from Illinois, said it was a very close vote and he thought 7 out of the 12 members of the Commission voted for Commerce.

Mr. HERTER. No. It is the other way around.

Mr. HAND. Voted for Treasury. The gentleman from California was not able to enlighten me on that particular point.

The committee report on page 4 states with reference to the subject of transfer to the Commerce Department that Commissioners Aiken, Pollock, and Rowe voted for that transfer; that is, transfer to Commerce. Can anyone inform us or can the chairman advise us how the Hoover Commission voted on this subject?

Mr. DAWSON. My best information is 5 out of 12 voted for Commerce. The majority was for Treasury.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HERTER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. If my memory serves me correctly, as a member of the Commission, there were only 10 or 11 present that day. There were 10 present. The vote was 7 to 3, if I remember correctly, 3 for transfer to Department of Commerce and 7 were opposed. That is if my memory is right.

Mr. HOLIFIELD. I wish to add another fact to that. There was one commissioner, Acheson, while agreeing on the need of placing RFC within the executive department did not specify whether it should go to either Commerce or Treasury. The dissenting members were Commissioners Aiken, Pollock, and Rowe.

Mr. HERTER. The colloquy that has just taken place raises a point that I think ought to be stressed. The American people have great faith in the Hoover Commission recommendations. The American people have been led to believe that all of these reorganization plans that have been brought in by the committee or sent in by the President are Hoover Commission recommendations. There is a complete misapprehension on that score throughout the country. Every effort is made whenever one of these matters comes up on the floor of the House to try to show how close it comes to the Hoover Commission recommendation in order to get approval of the Hoover Commission. This to my mind is absolutely unjustified, and in this particular case I cannot see that the plan has any relevancy to any report of the Hoover Commission except to take one out of three agencies and put it under somebody else rather than to leave it independent.

Mr. BROWN of Georgia. Mr. Chairman, will the gentleman yield?

Mr. HERTER. I yield to the gentleman from Georgia.

Mr. BROWN of Georgia. It is my understanding that the RFC has made a lot of money. Is that true?

Mr. HERTER. Under certain forms of bookkeeping I think it has.

Mr. BROWN of Georgia. I have been reliably informed of that fact. In this day and time when we have an agency that makes some money I think we better not disturb it by shifting it around to some place else.

Mr. HERTER. I think so, too.

Mr. BROWN of Georgia. We have a grand RFC building that was paid for out of the funds they made. What is going to become of these people in the RFC Building? Are they going to be taken down to the Commerce Building?

Mr. HERTER. I do not think the gentleman is going to see anything happen under this bill. This is a paper operation and nothing but a paper operation.

Mr. BROWN of Georgia. I take the position that the RFC has served the people well, it has made money, and I am against disturbing the RFC at this time. I want to go on record to that effect.

Mr. HERTER. I am glad to hear the gentleman say that. It seems to me this particular reorganization accomplishes exactly nothing and if it were to go through, what it might accomplish is in the reverse direction of what has been recommended by the Hoover Commission.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. HERTER. I yield to the gentleman from Michigan.

Mr. HOFFMAN of Michigan. Am I not correct in the assumption that the Hoover Commission did recommend that we go slow until after a study had been made of the RFC by the Congress?

Mr. HERTER. There is no question about that. They went over its functions very carefully. They examined not only that, but they recommended that there be created a coordinating agency as we have in the international field today to coordinate all of our activities instead of having them scattered all over the lot under independent direction.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. HERTER. I yield to the gentleman from Michigan.

Mr. MICHENER. Does the Citizens Committee advancing the Hoover Commission report favor this reorganization plan?

Mr. HERTER. They testified against it.

Mr. MICHENER. Does the Junior Chamber of Commerce which, throughout the Nation, has adopted the Hoover Commission report as one of its projects this year, support this reorganization plan?

Mr. HERTER. I think not. I hope, as I said at the very outset, that this disapproval resolution will have a large aye vote.

Mr. DAWSON. Mr. Chairman, I yield such time as he may desire to the gentleman from Illinois [Mr. SABATH].

(Mr. SABATH asked and was given permisison to revise and extend his remarks.)

Mr. SABATH. Mr. Chairman, in view of the statement of the gentleman from Michigan [Mr. HOFFMAN] that the RFC has made loans only to Democrats, I rise to take exception to and correct his remarks, because, as one who introduced the first bill creating the Reconstruction Finance Corporation I have been vitally interested in its operations, and I must state that the largest loans that have been made have gone to Republicans—not Democrats. I call your attention to the loan made to ex-Vice President Dawes, who was president of the Central Trust Co. of Chicago, and the first Chairman of the Reconstruction Finance Corporation. Conditions were so serious at that time that when I was called relative to this application, I consented, but with the understanding that the smaller banks as well would be aided—to enable them to weather the storm. But unfortunately after the Dawes loan was made, the assurances and promises to take care of the smaller banks were forgotten, with the result that in Chicago alone some forty outlying small banks were forced to close their doors.

Not only that—most of the loans made at that time were made to the large banks, railroads, and insurance companies which were controlled by Republicans, and most of them were actually insolvent.

My aim and purpose in introducing legislation early in 1931 was to help small business; big business could take care of itself. I followed the act that we passed during the First World War—the Federal Finance Corporation Act—which actually aided small business, but during the Hoover administration, as a result of the members he appointed to the RFC, such was not the case.

However, in 1933, when President Roosevelt became President, it was realized that my original aims to help small business should be carried out, and we passed an act amending the original law to take care of small business. If my memory serves me correctly it was in 1933 or 1934 that the Federal Reserve Act was amended permitting the Federal Reserve to make loans. That was under a Democratic administration. Therefore, the statement of the gentleman from Massachusetts is erroneous and not borne out by the facts. As I stated before, if Sec-

retary of the Treasury Mellon and Under Secretary Mills had cooperated with me in 1931 instead of waiting until 1932, a presidential year, the crash would not have been as serious and everything would not have been lost.

Furthermore, nearly all of the big loans—or about 90 percent of them—made in the first few years were made to Republicans. I regret that even in 1935 and 1936 the Reconstruction Finance Corporation failed to carry out the intent and purpose of the act. Small business was not aided by the Corporation as I originally intended. It was indeed unfortunate that President Roosevelt did not change the membership of the RFC more readily, when they were failing to carry out the desire of the administration to aid small business. We had heard many complaints, and it was for that reason we passed an act creating the Small War Plants Corporation. However, I feel the present chairman and the members are more liberal in trying to aid small business, and I hope they will continue to so interpret the law.

What effect putting the RFC under the Department of Commerce will make, I am not in position to state, but I know its functions would not be affected and the Secretary would have no jurisdiction in passing on loans. This authority would still be vested in the Corporation. It has been explained that the RFC formerly was under the Department of Commerce, but at that time the all-powerful Chairman, Mr. Jesse Jones, did not like the then Secretary of Commerce, Mr. Henry Wallace, and had it taken out of the Department. All this resolution aims to do is to put it back where it originally was and where it properly belongs.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield such time as he may desire to the gentleman from Tennessee [Mr. JENNINGS].

Mr. JENNINGS. Mr. Chairman, I simply wish to say that in my opinion this resolution is in accord with the Hoover Commission recommendations and that I shall vote for this resolution of disapproval of this proposed plan to shift the Reconstruction Finance Corporation to the Department of Commerce where it should not be. The proposal is contrary to the letter and spirit of the Hoover Commission's recommendations.

Mr. DAWSON. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this plan of reorganization of the executive department is one that the entire American public is interested in. We have hundreds of agencies that have to report to the President, and the Hoover Commission endeavored to make recommendations so as to limit the number of independent agencies and place them under some responsible head, like the head of a department. The Reconstruction Finance Corporation as it originally existed stood there by itself, responsible almost to no one. It has already been structurally divided; that is a fact. Certain of its lending agencies are now under the Housing Agency; others have gone to Agricultural, and all that remains now is the smallest one of its features. What shall we do with that feature about lending to small business? The Reconstruction Finance Corporation under its law can only lend to business when loans cannot be had at banks, because sometimes applicants are not able to pay within the limit of time that the banks may require. If we are going to help small business in this country, then we have got to do it through what remains of the RFC, which was created for this purpose.

I would like to answer the gentleman from Massachusetts [Mr. HERTER] in regard to one thing he said about the Hoover Commission recommendation as far as housing is concerned, that is, that the Hoover Commission recommended that Fannie May be placed in the Housing Agency. It was a specific recommendation showing that they meant to group kindred agencies under one suitable head. That is Recommendation No. 9.

Mr. HERTER. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield to the gentleman from Massachusetts.

Mr. HERTER. If the gentleman will read the minority report favoring the disapproving resolution he will see in there a quotation from the task force.

Mr. DAWSON. I am reading from the Hoover Commission recommendation.

Mr. HERTER. But if the gentleman will read elsewhere, he will find that the Hoover Commission very definitely recommended a complete study of all the functions of that agency.

Mr. DAWSON. That has nothing to do with the matter before us. Congress can still study it. Congress is now investigating it. No action that we take here today can stop any investigation or can keep Congress from studying it or doing anything about it. But we should place it under some responsible head with a direct channel to the President. We have done it in other instances and we ought to do it now.

Mr. HERTER. Will the gentleman tell me why the committee refused to take the three independent agencies that were recommended be taken in bloc and put under the Treasury Department, and merely singled out one and put that under Commerce?

Mr. DAWSON. I do not know what the gentleman refers to by taking three agencies and placing them there, but if that was the recommendation the President could still do it by plan. There is no plan the President can submit at one time that can embrace all the recommendations of the Hoover Commission. He must do it step by step, and this is one of the steps.

I read now into the record the Hoover Commission recommendation:

> We do, however, recommend that all housing activities be placed in one agency under a single administrator who should be given the type of authority which we have recommended for the heads of all agencies.
>
> We propose that the following functions also be included: Federal National Mortgage Association.

The gentleman will find that on page 25.

The CHAIRMAN. There being no further requests for time, the Clerk will read the resolution.

The Clerk read as follows:

Resolved, That the House of Representatives does not favor the Reorganization Plan No. 24 transmitted to Congress by the President on May 9, 1950.

Mr. DAWSON. Mr. Chairman, I move that the Committee do now rise and report House Resolution 648, disapproving Plan No. 24, back to the House with the recommendation that it not be agreed to. That means that a vote for the plan is "no." A vote for the plan is a vote against the resolution.

Mr. JUDD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. JUDD. Is this just a motion for the Committee to rise?

The CHAIRMAN. Yes.

Mr. HERTER. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HERTER. The Chair has just stated that the motion is merely a motion to rise. As I understood, the motion was to rise and recommend that the disapproving resolution be not concurred in. In other words, the vote is actually on the merits of this resolution, not the question of whether we rise.

The CHAIRMAN. It is on the Committee's rising and reporting the matter to the House.

Mr. HERTER. Reporting the matter, but disapproving.

The CHAIRMAN. That is correct.

Mr. HERTER. Disapproving a disapproving resolution?

Mr. McCORMACK. Exactly. It is a double negative.

The CHAIRMAN. Reporting the resolution back to the House with the recommendation that it be not agreed to.

Mr. HERTER. That the disapproving resolution be not agreed to?

The CHAIRMAN. That is right.

Mr. SHORT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SHORT. What is the motion?

The CHAIRMAN. The motion of the gentleman from Illinois is that the Committee do now rise and report the resolution back to the House with the recommendation that it be not agreed to.

The question is on the motion.

The question was taken; and on a division (demanded by Mr. HERTER) there were—ayes 46, noes 22.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. MILLS, having assumed the chair, Mr. CHELF, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (H. Res. 648) disapproving Reorganization Plan No. 24, had directed him to report the resolution back to the House with the recommendation that it be not agreed to.

CALL OF THE HOUSE

Mr. MILLER of Nebraska. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count. [After counting.] Eighty-six Members are present, not a quorum.

Mr. RANKIN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RANKIN. Mr. Speaker, if the House were to adjourn now this would be the first order of business the next day we meet, would it not?

Mr. McCORMACK. Mr. Speaker, I move a call of the House.

Mr. RANKIN. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn.

The motion was rejected.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 194]

Abbitt	Harrison	Perkins
Abernethy	Harvey	Pfeifer, Joseph L.
Allen, La.	Hays, Ohio	Pfeiffer, William L.
Andersen, H. Carl.	Hébert	Phillips, Tenn.
Anderson, Calif.	Hedrick	Pickett
Andresen, August H.	Heffernan	Plumley
Angell	Heller	Poage
Arends	Hobbs	Poulson
Auchincloss	Hoeven	Powell
Barden	Hoffman, Ill.	Preston
Barrett, Pa.	Irving	Price
Barrett, Wyo.	Jackson, Calif.	Quinn
Bates, Ky.	Jackson, Wash.	Rains
Bennett, Mich.	James	Ramsay
Blatnik	Javits	Redden
Bolling	Jenison	Regan
Bolton, Ohio	Jenkins	Rich
Bramblett	Johnson	Riehlman
Breen	Jonas	Rivers
Bryson	Jones, Ala.	Roosevelt
Buchanan	Jones, Mo.	Sadlak
Bulwinkle	Kean	Sadowski
Burdick	Kearney	St. George
Byrne, N. Y.	Kearns	Sanborn
Canfield	Keefe	Sasscer
Carroll	Kelley, Pa.	Scott, Hardie
Cavalcante	Kelly, N. Y.	Scrivner
Celler	Kennedy	Sheppard
Chesney	Keogh	Sikes
Christopher	Kerr	Simpson, Pa.
Chudoff	Kilburn	Sims
Clemente	Kirwan	Smathers
Clevenger	Klein	Smith, Ohio
Cole, N. Y.	Latham	Spence
Corbett	LeFevre	Stanley
Coudert	Lichtenwalter	Steed
Davenport	Linehan	Stigler
Delaney	Lodge	Sutton
Dingell	Lyle	Taber
Dollinger	Lynch	Tackett
Dondero	McCarthy	Taylor
Doughton	McConnell	Thompson
Durham	McGrath	Thornberry
Eaton	McGregor	Towe
Engel, Mich.	McGuire	Underwood
Evins	McKinnon	Velde
Fallon	McMillen, Ill.	Vinson
Fogarty	Macy	Vursell
Frazier	Magee	Wadsworth
Fugate	Marshall	Wagner
Furcolo	Martin, Mass.	Walsh
Gamble	Mason	Werdel
Gillette	Miles	Wheeler
Gilmer	Mitchell	Whitaker
Golden	Monroney	White, Idaho
Gossett	Morgan	Wickersham
Granahan	Morris	Widnall
Green	Morton	Wier
Gwinn	Multer	Willis
Hall, Edwin Arthur	Murphy	Wilson, Ind.
Hall, Leonard W.	Nicholson	Wilson, Okla.
Halleck	Noland	Wolcott
Harden	Norton	Wood
Harris	O'Neill	Woodhouse
	O'Toole	Young
	Pace	
	Passman	
	Patman	
	Patterson	

The SPEAKER pro tempore (Mr. MILLS). On this roll call 231 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REORGANIZATION PLAN 24 OF 1950

The SPEAKER pro tempore. Without objection, the clerk will report the resolution.

There was no objection.

The Clerk read the resolution, as follows:

Resolved, That the House of Representatives does not favor the Reorganization Plan No. 24 transmitted to Congress by the President on May 9, 1950.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, the resolution, not having received the affirmative vote of a majority of the authorized membership of the House, is not agreed to.

SIGNING OF ENROLLED BILL

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that, notwithstanding the adjournment of the House until Monday next, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ADJOURNMENT OVER

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PROGRAM FOR NEXT WEEK

Mr. BROWN of Ohio. Mr. Speaker, I ask the majority leader, the gentleman from Massachusetts [Mr. McCORMACK] as to the program for next week and for as much of the following week as he can give it.

Mr. McCORMACK. I will be very glad to. As previously announced, there will be no legislative business next week. There will be nothing unless something arises which will call us back.

Mr. BROWN of Ohio. I understand arrangements have been made that proper notice will be given the Members, should the occasion arise.

Mr. McCORMACK. The Members will receive notice. Of course, if there is any necessity, the newspapers will probably carry it. But, every effort on the part of the leadership will be made to notify the Members. I have no expectation of any business, as I am talking now, and I want the Members to know so that they can govern themselves accordingly. But one never can tell what emergency might arise, and the House is always ready. We have caught up with our legislation. There are only a few rules remaining which can wait until the week of July 10. The House has been very cooperative and has dispatched its business with rapidity. As a matter of fact, only the other day we got several rules out of the Committee on Rules, and we have disposed of two or three of them already. Other than that we are completely caught up. So, there is no business on the program for next week.

Mr. BROWN of Ohio. How about Monday, July 10?

Mr. McCORMACK. Monday, July 10, the Consent and Private Calendars will be called; also, District Day. Reorganization Plan No. 27 will come up on that day also.

Mr. BROWN of Ohio. Are there any suspensions for Monday, the 10th?

Mr. McCORMACK. No. I have conferred with the Speaker and there are no suspensions and none proposed. I make that statement now that none are proposed for July 10.

Mr. BROWN of Ohio. That is the Reorganization Plan for the Department of Welfare that will come up?

Mr. McCORMACK. Yes. Then on Tuesday the bill pertaining to point 4 that came out of the Committee on Banking and Currency will come up and after that I am in hopes that we will be able to quickly adopt the rule on the security bill. I understand that the adoption of the rule today has been agreed to. Then the consideration of the bill itself will go over until Tuesday, July 11. In any event, following the point 4 bill from the Committee on Banking and Currency, the next order of business will be H. R. 7439, the so-called security bill.

I have nothing further to announce now as to the program for that week, but in the early part of that week I shall announce the program for the remainder of the week.

Mr. BROWN of Ohio. Then is my understanding correct that for this coming week there will be no legislative program, unless the Members are notified in case of an emergency?

Mr. McCORMACK. Unless an emergency situation arises, there is no legislative program for next week.

Mr. BROWN of Ohio. Beginning with Monday, July 10, there will be a rather important, steady legislative program for that week, beginning with the vote on Reorganization Plan No. 27?

Mr. McCORMACK. From my angle, the point 4 bill is of course very important.

Mr. BROWN of Ohio. That will come up on Monday also.

Mr. McCORMACK. The resolution on plan 27, from my angle, is not very important. The President's recommendation should be approved.

Mr. BROWN of Ohio. The Reorganization Act provides that the resolution must be voted on within the 60-day limit?

Mr. McCORMACK. Exactly.

Mr. BROWN of Ohio. Of course, that is the last day. It comes up the 10th.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 81st CONGRESS, SECOND SESSION

Vol. 96 WASHINGTON, THURSDAY, JULY 6, 1950 No. 133

House of Representatives

The House was not in session today. Its next meeting will be held on Friday, July 7, 1950, at 12 o'clock noon.

Senate

THURSDAY, JULY 6, 1950

(*Legislative day of Saturday, July 1, 1950*)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

O God who art the hope of all the ends of the earth, amid the tragedy of a broken world, in deep humility of spirit, at noonday we ascend the altar stairs of this hallowed temple of our faith and hope. As for this dedicated moment we blot out all but Thee in a world of rising and falling empires, we crave the strengthening vista of Thine eternal kingdom whose sun never sets.

Grant unto us that greatness of spirit which shall match the vast patterns of this creative day. In these testing times, establish Thou our hearts, as in unity with other freedom-loving nations we battle not in enmity against men, but against the evil which degrades and enslaves them. Beyond the strategy of armed strife may we see clearly the depth and scope of this historic drama of the centuries, and may that vision turn its blood and sweat and tears into final glory for all mankind. We ask it in the ever blessed Name. Amen.

THE JOURNAL

On request of Mr. MYERS, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, July 5, 1950, was dispensed with.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting nominations was communicated to the Senate by Mr. Miller, one of his secretaries.

LEAVE OF ABSENCE

On his own request, and by unanimous consent, Mr. DARBY was excused from attendance on the sessions of the Senate tomorrow and next week, because of necessary business in Kansas.

MEETINGS OF COMMITTEES DURING SENATE SESSION

On request of Mr. MYERS, and by unanimous consent, the Committee on Finance was authorized to meet this afternoon during the session of the Senate.

On request of Mr. MYERS, and by unanimous consent, the Committee on Expenditures in the Executive Departments was authorized to meet this afternoon during the session of the Senate.

CALL OF THE ROLL

Mr. MYERS. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Green	McMahon
Anderson	Gurney	Martin
Benton	Hayden	Millikin
Brewster	Hendrickson	Morse
Bricker	Hickenlooper	Mundt
Bridges	Hill	Murray
Butler	Hoey	Myers
Cain	Holland	O'Mahoney
Capehart	Humphrey	Pepper
Chavez	Hunt	Robertson
Connally	Ives	Russell
Cordon	Jenner	Saltonstall
Darby	Johnson, Tex.	Schoeppel
Donnell	Kefauver	Smith, Maine
Douglas	Kem	Smith, N. J.
Dworshak	Kerr	Sparkman
Eastland	Kilgore	Stennis
Ecton	Knowland	Taft
Ellender	Langer	Thomas, Utah
Ferguson	Leahy	Thye
Flanders	Lehman	Tydings
Frear	Lodge	Watkins
Fulbright	McCarthy	Wherry
George	McClellan	Wiley
Gillette	McFarland	Williams
Graham	McKellar	Young

Mr. MYERS. I announce that the Senator from Virginia [Mr. BYRD] is absent because of serious illness in his family.

The Senator from Kentucky [Mr. CHAPMAN] and the Senator from Illinois [Mr. LUCAS] are absent on public business.

The Senator from California [Mr. DOWNEY] is absent because of illness.

The Senator from Colorado [Mr. JOHNSON], the Senators from South Carolina [Mr. JOHNSTON and Mr. MAYBANK], the Senator from Louisiana [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], the Senator from Nevada [Mr. MCCARRAN], the Senator from Idaho [Mr. TAYLOR], the Senator from Oklahoma [Mr. THOMAS], and the Senator from Kentucky [Mr. WITHERS] are absent by leave of the Senate.

The Senator from West Virginia [Mr. NEELY] is necessarily absent.

The Senator from Maryland [Mr. O'CONOR] is absent by leave of the Senate on official business, attending the sessions of the International Labor Organization at Geneva, Switzerland, as a delegate representing the United States.

Mr. SALTONSTALL. I announce that the Senator from New Hampshire [Mr. TOBEY] and the Senator from Michigan [Mr. VANDENBERG] are absent by leave of the Senate.

The Senator from Nevada [Mr. MALONE] is absent on official business.

The VICE PRESIDENT. A quorum is present.

REORGANIZATION PLAN NO. 24 OF 1950

In accordance with the unanimous-consent agreement entered into on June 30, 1950, the Senate proceeded to the consideration of Senate Resolution 290, which is as follows:

Resolved, That the Senate does not favor the Reorganization Plan No. 24 of 1950 transmitted to Congress by the President on May 9, 1950.

The VICE PRESIDENT. Under the unanimous-consent agreement entered into the time between now and 4 o'clock is to be divided equally between the proponents and the opponents of the resolution (S. Res. 290) disapproving Reorganization Plan No. 24 of 1950, with the time allotted to the proponents to be controlled by the Senator from Arkansas [Mr. FULBRIGHT]. No provision has been made with respect to the control of the time allotted to the opponents of the resolution.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the Senator from Pennsylvania [Mr. MYERS] be in control of the time of those who oppose the resolution.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MYERS. Mr. President, I ask unanimous consent that Senators be permitted to introduce bills and joint resolutions, present petitions and memorials, and place routine matters in the RECORD and in the Appendix, without speeches or long debate, and that the time be equally divided between the proponents and opponents of Senate Resolution 290.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. WHERRY. Mr. President, reserving the right to object, in view of the fact that we have had a quorum call, I wonder if the distinguished acting majority leader would not take up at this time the question of the unanimous-consent agreement as to Senate Resolution 299, relating to Reorganization Plan No. 22.

Mr. MYERS. Mr. President, I withhold for the moment the unanimous-consent request as to routine matters, and I present another unanimous-consent request, that following the disposition of Senate Resolution 290, a resolution to disapprove Reorganization Plan No. 24, the Senate proceed immediately to the consideration of Senate Resolution 299, a resolution to disapprove Reorganization Plan No. 22; that 1 hour of debate be provided, the time to be equally divided between the proponents and opponents of Senate Resolution 299.

The VICE PRESIDENT. Is there objection?

Mr. MORSE. Mr. President, reserving the right to object, I wish to make a brief remark or two with respect to the procedure in handling the calendar of the Senate.

I was very much disturbed yesterday to hear——

The VICE PRESIDENT. In the absence of an agreement, no Senator can speak unless he is yielded to either by the Senator from Arkansas or the Senator from Pennsylvania. The Senator from Pennsylvania is presenting another unanimous-consent request, which presumably will be taken out of his time.

Mr. MYERS. Mr. President, will the Senator withhold his remarks until we dispose of the unanimous-consent agreement to make the resolution affecting Reorganization Plan 22 the order of business immediately after the disposition of the resolution respecting Reorganization Plan 24?

Mr. MORSE. That is exactly what I want to reserve my objection to.

CONSIDERATIONS OF NATIONAL DEFENSE CALL FOR CONGRESS TO REMAIN IN SESSION

Mr. MYERS. Mr. President, I yield to the Senator from Oregon.

Mr. MORSE. Mr. President, I shall be very brief because the general subject matter of my remarks in connection with the reservation of objection is pertinent to working out what I consider to be an appropriate calendar of legislation for the Senate.

Mr. President, I was very much disturbed yesterday to hear the majority leader announce his plans for a calendar for the Senate contemplating adjournment on August 1. I think it is a great mistake for the Senate of the United States to make plans for adjournment on August 1 because, in my opinion, the crisis which confronts America is so serious that the American people should be given assurance that the Senate fully appreciates the gravity of the situation and that the Senate will remain in session continuously until the crisis is over. The Senate should take out whatever few days may be necessary for the campaign in the latter part of October before the election, depending even then upon the condition of international affairs.

I do not think the Senate of the United States should adjourn for the purpose of Members of the Senate playing politics in the oncoming campaign. Although some of the domestic bills mentioned by the majority leader yesterday are important in normal times, I believe that some of them lose their importance in the face of the Korean crisis. At least I think we should advance ahead of such bills the consideration of some very important issues, action upon which will place the country in a much stronger defense position than it seems to be demonstrated we are in today.

For example, I raised in the Armed Services Committee this morning the question of the state of our defenses in Europe, because certainly nothing reassuring has resulted from the London conference at least as to the present status of our defenses in Europe. Nothing reassuring came out of that conference that the money appropriated by the Congress of the United States last year for military aid to Europe has brought forth any substantial shipment of military equipment to Europe. I believe I am reliably informed when I say to the Senate on this occasion that the leaders of governments in Europe are very much concerned about the slow pace America has kept in regard to actually shipping any equipment to Europe. In my opinion it is also perfectly clear that we do not have very much heavy military equipment in Asia, in view at least of the results to date in the Korean crisis.

Mr. President, I will go along with the majority leader and the majority party in advancing as rapidly as we can a calendar dealing with domestic issues, but I shall insist so far as my one vote in the Senate is concerned that we advance ahead of some of the bills as were mentioned by the majority leader yesterday, consideration of the defenses of the country, because I think they are in a very serious condition.

The nature of the Russian propaganda on the Korean matter shows very clearly, I believe, the need for quick action on the proposal of the Senator from Connecticut [Mr. BENTON] which is now being given some consideration in committee. In my judgment it ought to be reported by the committee to the Senate at once, and the Senate of the United States should appropriate this week the funds necessary to give to America's Voice the funds it needs to meet the Russian propaganda. I believe it is just as important that we meet Russia in this crisis on the informational front as it is that we meet her satellite armies in Korea. We are now doing that in Korea and I fear we will have to meet her satellite armies in Europe also if we do not show very quickly that we are strong enough to handle the Korean situation and handle it very speedily with a minimum loss of American lives.

I repeat, Mr. President, what I said yesterday. I think the American people must be awakened to the fact that we are at war. Call it a police action, call it a minor war, or apply any other descriptive term to it that one may desire; the fact is that the American flag is flying in combat at this very hour, and American boys are dying in Korea.

I think the Senate of the United States would perform a reassuring service to the American people if, instead of announcing that it is planning to adjourn on August 1, it would announce that it is planning to stay in session, ready to back up the hands of the President, by giving him whatever aid he needs as Commander in Chief to bring to the earliest possible end the crisis in Asia, and serve clear notice to Russia that business as usual in America does not happen to be the slogan of the day.

Mr. President, it needs to be pointed out to the American people that they must dispel from their minds the notion that we can continue with a "business as usual" economic program in this crisis. There is a discussion pending in the Senate over a tax bill. I want to see that tax bill, however, discussed in the Congress from the standpoint of strengthening America's defenses, and not from the standpoint of trying to save somebody some dollars in lower taxes. I want to see discussed the tax issue from the standpoint of revising the tax structure so taxes will be fair. That is all the American taxpayer is entitled to in this crisis. He is entitled to have the inequities eliminated from the tax structure and a fair tax program adopted.

Mr. President, I think the time has also come to tell the American taxpayer that if we are to keep America as strong as it must be kept in order to meet the emergency which confronts the Nation, he will have to pay substantial taxes, and probably some people will have to pay higher taxes, because we are not going to meet this Russian threat on a "business as usual" basis.

no session tomorrow, in order to give the Appropriations Committee an opportunity to report the appropriations bill as soon as possible.

Mr. WHERRY. I appreciate the information that there will not be a call of the calendar on Monday.

Mr. MYERS. I shall confer with the majority leader as soon as he returns, and shall see if it is possible to have a call of the calendar following Monday, as soon as practicable.

Mr. WHERRY. I should like to ask another question of the distinguished acting majority leader, if he will yield.

Mr. MYERS. I yield.

Mr. WHERRY. Yesterday I asked the majority leader whether he would prepare the cloture petition on the motion to consider the FEPC bill which he expects to file on Monday, and on which the vote would be taken on the following Wednesday. Does the Senator from Pennsylvania know whether the cloture petition has been prepared?

Mr. MYERS. It has been prepared, and has just been delivered to my desk.

Mr. WHERRY. I wish the Senator would announce that, so all Senators who wish to sign the cloture petition may have an opportunity to do so.

Mr. MYERS. Mr. President, the cloture petition has been prepared, and is now on my desk. All Senators who desire to sign the cloture petition may do so.

Mr. WHERRY. I thank the Senator.

REORGANIZATION PLAN NO. 24 OF 1950

The Senate resumed the consideration of the resolution (S. Res. 290) disapproving Reorganization Plan No. 24 of 1950, providing for the transfer of the Reconstruction Finance Corporation to the Department of Commerce.

Mr. FULBRIGHT. Mr. President——

The VICE PRESIDENT. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. I yield 10 minutes to the junior Senator from Virginia [Mr. ROBERTSON].

The VICE PRESIDENT. The Senator from Virginia is recognized for 10 minutes.

Mr. ROBERTSON. Mr. President, I regret very much that the senior Senator from Virginia [Mr. BYRD] is absent today because of the illness of his wife.

Today I shall take the liberty of speaking for both Senators from Virginia, because both of us are of the opinion that it will be wise for the Senate to adopt Senate Resolution 290, the Fulbright resolution, to disapprove Reorganization Plan No. 24. Before giving my reasons for that position, I wish to take occasion to express my very high regard for the ability, the integrity, and the unselfish devotion to duty of the distinguished Secretary of Commerce, Mr. Sawyer. If my decision were to be based solely on a question of personality, I frankly could not name anyone whom I should prefer over Mr. Sawyer to administer the affairs of the Reconstruction Finance Corporation and to control its general policies. But the junior Senator from Virginia feels that it would be the part of wisdom if we were to delay action on the RFC proposal until the Senate Banking and Currency Committee can conclude its present study of the RFC and can have an opportunity, which we shall embrace at the earliest possible date next year, to submit to the Senate a definite plan.

It is known that the RFC subcommittee of the Banking and Currency Committee, headed by the distinguished Senator from Arkansas [Mr. FULBRIGHT], has spent a good many weeks studying this whole problem. He feels—and I think properly so—that action today in transferring or authorizing the transfer of RFC to the Department of Commerce would nullify the work which has been done by that subcommittee, and would place the Senate and the Congress in such a position next year that it would be difficult, if not impossible, to work out a plan which many think would be better than the pending proposal to transfer RFC to the Department of Commerce.

There are six bills pending before the Banking and Currency Committee, all purportedly designed to aid small business. One of those bills would direct the RFC to make loans to small business on easier credit terms than are now authorized by law. In stating that I have great confidence in Secretary Sawyer, I had in mind his testimony on those bills before our committee, in which he emphatically said that he did not think the Government should make a loan to anyone on inadequate security. He also said he was a firm believer in the American system of competitive enterprise. I know that both his private life and his official action fully confirm that expression on his part.

It will be a physical impossibility for the Senate Banking and Currency Committee to complete action during the present session, on the six bills to which I have referred. One of the bills, as I say, deals directly with RFC. All the others deal more or less with the general credit policies of the Nation. It would be logical, therefore, if we were to defer action at this time on transferring the RFC to the Department of Commerce until we can see what the Senate Banking and Currency Committee ultimately does on the pending credit proposals, and what further facts may be developed by the Fulbright committee, which has not completed its study.

The testimony before the Senate Committee on Expenditures in the Executive Departments concerning the Fulbright resolution shows that the resolution of disapproval was strongly endorsed by the American Bankers Association, the testimony to that effect being given by my good friend, Mr. Francis Cocke, of Roanoke, who is chairman of the Committee on Federal legislation of that great bankers association. Speaking for that national association, Mr. Cocke said they were definitely opposed to the transfer of RFC to the Department of Commerce. I am not sure whether he said that the bankers preferred it to remain an independent agency, but I think he did. As I recall he also said that if it were to be transferred anywhere, they would prefer to see it go to the Treasury Department.

The legal representative of the Association of Reserve City Bankers testified before the committee against the transfer of RFC to the Department of Commerce. The chairman of the citizens committee for the Hoover report testified against the transfer to the Department of Commerce. He wanted the recommendations of the Hoover Commission to transfer RFC to the Treasury Department carried out. A few days ago I read a newspaper story—I assume it was correct—in which it was stated that personally Mr. Hoover favored the transfer of RFC to the Board of Governors of the Federal Reserve System.

The hearings before the Senate Committee on Expenditures in the Executive Departments showed that the task force of the Hoover Commission thought the RFC should be abolished. There are a good many Members of Congress who share that viewpoint. The RFC was created in a great emergency in 1932 to furnish working capital, when the banks were unable to do so and when such capital was not available elsewhere. I may add, Mr. President, the RFC did a great job. It met a known emergency, and met it well. No agency which handles billions of dollars can be perfect, and I think even the most biased friends of RFC will now admit that the RFC has made some rather serious errors.

The VICE PRESIDENT. The time of the Senator from Virginia has expired.

Mr. ROBERTSON. May I have 10 minutes more?

Mr. FULBRIGHT. I yield 10 minutes more to the Senator from Virginia.

Mr. ROBERTSON. As I say, the RFC has made some rather serious errors. I may mention Lustron, for example. That certainly was not a very well conceived loan. I read in the newspapers that RFC made a loan to a hotel in the great State of Nevada whose earning power was largely, if not solely, dependent upon the successful operation of a gambling concession.

But the over-all operations of the RFC have been well handled. We have within recent years greatly expanded its privilege of loaning money. It now has a lending capacity up to $3,750,000,000. That is a tremendous economic power. Certain witnesses—I do not associate myself with them—testified before the committee that if the lending power of $3,750,000,000 were taken from an independent agency, subject to congressional control and reporting directly to the Congress, and whose files are always open to Congress, and that agency were made a part of a department, there would be a great temptation to use that tremendous lending power for political purposes. I say I do not make that charge. It was made and is contained in the hearings which have been placed on our desks.

There were several other witnesses who, for various reasons, opposed the transfer.

So, Mr. President, because the Fulbright committee investigating the RFC has not completed its work, because the

Banking and Currency Committee has not finished work on six bills relating to credit, and because there was no unity in the Hoover Commission as to what should be done, Mr. Hoover favoring the Federal Reserve Board, the task force favoring abolishing the RFC, a majority of the committee favoring transfer to the Treasury Department, and only two or three members of the Hoover Commission favoring transfer to the Department of Commerce, I think it would be the part of wisdom for the Senate to take no action at this time, but to let the matter go over.

Certainly there is no burning issue with regard to easy credit at the present time. The banks are overflowing with money. Three times as much money is now in circulation as was the case before the war. The month of May was reported by the Federal Reserve Board as the month of the greatest production in our history. June has been reported as the month of almost complete employment. All economists are of the opinion that this situation will undoubtedly continue for the remainder of the year. Certainly the war in Korea will not bring on a depression. It may bring on a great deal of new expenses, which I wish to mention before I conclude. But war does not bring on depressions.

So, Mr. President, I do not see how anything will be imperiled by letting this proposed transfer go over until next year and giving the Banking and Currency Committee of the Senate an opportunity to present a bill which will be open to all germane amendments. We can recommend that the RFC be abolished as an independent agency, or we can transfer it wherever the majority says it should be transferred. We are not binding the hands of Congress in any way by letting the matter go over until the whole subject can be more fully explored.

Mr. President, the measures which are coming before us next week and the following week pale into insignificance what we are debating today. On yesterday our distinguished Majority Leader called on the Senate Appropriations Committee to have its bill ready for floor action by next Monday and requested us to work at night if necessary to do so. If the full committee does not undertake to make an item-by-item review of the work of its subcommittees we can have the bill ready for floor action by next Monday. But the total of that bill will surprise some who have not kept in close touch with the new demands for money presented to us since the House passed the bill and who do not understand how impractical it would be to apply arbitrary percentage cuts to such agencies as the defense agencies, the Post Office Department and the FBI. Our committee has been forced to restore a substantial part of the cuts which would have been made by the Taber amendment to add some $300,000,000 on the basis of new supplemental estimates and over $1,000,000 for the military aid bill which the Senate passed by unanimous vote. As the result, the appropriation bill on which the Senate will act will be much in excess of the bill passed by the House.

On yesterday, the Secretary of the Treasury, John Snyder, testifying before the Senate Finance Committee, warned Congress that the Nation might as well grit its teeth and get used to the idea of higher taxes and not lower taxes, because of Korea.

The distinguished Senator from Oregon [Mr. MORSE] has notified us this morning that when that bill comes before the Senate he wants to see it debated on the basis of the national security and general welfare, and not on the basis of what candidates may be helped by the passage of certain provisions of the bill.

Public sentiment has backed the action of President Truman in carrying out the mandate of the Security Council of the United Nations to make a firm stand against the unjustified communistic aggression in South Korea. Public sentiment backs the action of the Congress in continuing ECA aid for western Europe and military aid under the provisions of the Atlantic Pact. But public sentiment expects all of this international program, involving the expenditure of vast sums and the possible loss of life in the Korean conflict to be a definite contribution to world peace.

The results to be accomplished will be a sad and bitter disappointment to the people of America if it should turn out that the nations whom we are endeavoring to help preserve their personal freedom do not love that freedom enough to fight for it. A pertinent discussion of what is involved in the present Korean conflict is carried in an article by Joseph C. Harsch, published on yesterday in the Christian Science Monitor.

Mr. President, I ask unanimous consent to have inserted in the RECORD as a part of my remarks the article to which I have referred.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STATE OF THE NATION

THE IMPORTANT THING

(By Joseph C. Harsch)

WASHINGTON.—During these anxious and swift-moving days we should keep in mind that the important thing is not whether the forces of the West hold Korea, but that a common effort has been mobilized to try to prevent the fall of one country—it could be any country—to naked force.

Korea itself may well be lost. The Korean Army has proved disappointing in the first phase of military operations. There is no evidence yet that the Korean people as a mass are taking an effectively active interest in behalf of their own independence. The burden falls increasingly on the military forces coming in from outside under the aegis of the United Nations.

If the Korean people themselves rally to their own defense, then Korea can in all probability be rescued and revived. But if they fail to rally then eventually the forces now giving them their chance must retire. The United States is not putting its military forces into Korea to gain military bases. American military opinion long since judged Korea to be military untenable. United States Army, Navy, and Air Force thinking is equally opposed to establishing any permanent United States positions on Korea.

From the strictly military point of view, they want nothing to do with Korea, and will get out at the first possible moment. In the long run, Korea can be sustained only by the will of its own people to retain their independence. If they fail to demonstrate that will, then Korea will be lost. It could be lost very soon.

Certainly it would be far better to try in Korea, and succeed, than to try, and fail. Failure would give the Comintern propagandists a useful weapon. They could argue that events in Korea prove a preference among Asiatic peoples for Russian communism over western freedom. The argument would be specious, but it undoubtedly would impress many persons.

But that is not the important thing. The important thing is that the effort was made; that the United States proved that it learned the lessons of nonintervention and appeasement in the thirties; proved that the United States is sincere about all the things it has done of recent years to save the West.

If this effort had not been made, it is almost certain that the great coalition would have fallen apart. What has not been sufficiently realized or admitted publicly over here is that the winter of 1949–50 was a period of declining faith in the cause of the West. Europe particularly began to doubt the sincerity of the Marshall plan and the Atlantic Pact and the United Nations and everything else involved in the common security of the western world. There was a frightening degeneration in the atmosphere which showed itself in Europe in a rising urge to neutralism, in the startling numbers of persons in all European countries who would sign the Stockholm petition, in an atmosphere of defeatism.

This degeneration of western morale, this creeping lack of faith, was checked for the first time by the Schuman plan and talk of new weapons. But it was not exorcised for all time. The fear that the will of Moscow was a stronger mental quantity than the will of the west was there to be revived in full anguish at the news of the march of an invading army across a frontier.

If the military effort to rescue Korea fails, then Korea is lost, and there is propaganda discomfort to us, and it will be in order to examine the methods which failed so signally to set up an effective government in South Korea. But that is the sum of it.

If the military effort to rescue Korea had not been made, all the labors of five years probably would have come to naught and we would have seen a cringing Europe plodding off one by one to make its peace with Moscow.

We may hope that the Korean cause is not a lost cause. But we should also remember that the bigger cause has been won no matter what the outcome in Korea. The faith of the West has been confirmed and renewed. We and our friends now have the proof we all needed of each other's sincerity.

Mr. CAIN. Mr. President, will the Senator yield for a question?

Mr. ROBERTSON. I yield.

Mr. CAIN. Is it not almost certain that because of the investigation of the Reconstruction Finance Corporation the Senate Banking and Currency Committee will offer a bill dealing with the operation of that corporation?

Mr. ROBERTSON. I so understand. That is one of the main reasons I ask my colleagues in the Senate not to preclude us from making a report in which we think they will be much interested.

Mr. CAIN. The Senator from Washington would like to say that that reason justifies his opposition to Reorganization Plan No. 24, because if we agree at this time to the proposal, we are likely within a few short months of this time to be required to undo, or we may wish to undo what we have done.

Mr. ROBERTSON. I think so. I think we should have another look at it. If we take a look at it, and our look does not agree with the look at the other end of Pennsylvania Avenue, our look will probably be vetoed.

Mr. President, I yield back the remainder of my time.

RECESS

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:15 p. m. It appears that there are not many Senators who desire to speak in opposition to this resolution.

The VICE PRESIDENT. The Senator from Arkansas asks unanimous consent that the Senate now take a recess until 2:15 p. m. Is there objection?

Mr. MYERS. I have no objection.

There being no objection, the Senate (at 12 o'clock and 58 minutes p. m.) took a recess until 2:15 o'clock p. m.

On the expiration of the recess, the Senate reassembled and was called to order by the Vice President.

REORGANIZATION PLAN NO. 24 OF 1950

The Senate resumed the consideration of the resolution (S. Res. 290) disapproving Reorganization Plan No. 24 of 1950, providing for the transfer of the Reconstruction Finance Corporation to the Department of Commerce.

Mr. FULBRIGHT. Mr. President, I yield 5 minutes to the senior Senator from Vermont [Mr. AIKEN].

The VICE PRESIDENT. The Senator from Vermont is recognized for 5 minutes.

Mr. AIKEN. Mr. President, when the Hoover Commission made its report on the reorganization of the Treasury Department, the majority of the Commission recommended that the RFC be placed in the Treasury Department. With Commissioners Pollock and Rowe, I dissented from this recommendation, and recommended instead that the RFC be placed in the Commerce Department.

The reason for this minority recommendation was our belief that if the functions of government were to be grouped according to their major purposes, the RFC should be incorporated in the Department of Commerce, because its major purpose is, of course, the stabilization and improvement of industry and commerce, and the lending of money is merely a means of achieving that major purpose of the RFC.

However, at that time conditions with respect to the RFC were considerably different from what they are now. In view of the fact that the subcommittee headed by the Senator from Arkansas [Mr. FULBRIGHT] has been holding hearings, which I understand are not completed, and that some rather unsavory revelations have been made at the hearings, it seems to me best at this time not to place the RFC in any department of government, which might give it a greater air of permanency.

It is apparent already that after the subcommittee has completed its hearings the RFC must be purified in some way, or abolished. In view of the fact that the future of the RFC is so uncertain at this time, I feel that I am on sound ground in voting to disapprove Reorganization Plan No. 24 as submitted by the President.

Mr. President, I take this position without prejudice to incorporating the RFC in one of the departments of government at a later date if it is found advisable to continue its existence. I still believe, as I did as a member of the Hoover Commission, that if the RFC is put in any department the Department of Commerce is more nearly the proper department than the Treasury Department. But under the circumstances I think it best not to put it in any of the departments of government at this time, but to vote to approve the resolution which disapproves Reorganization Plan No. 24.

Mr. FULBRIGHT. I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER (Mr. DOUGLAS in the chair). The Senator from Pennsylvania is recognized for 5 minutes.

THE BOY SCOUT JAMBOREE AT VALLEY FORGE, PA.—ADDRESS BY THE PRESIDENT

Mr. MARTIN. Mr. President, last Friday afternoon the senior Senator from Pennsylvania [Mr. MYERS] and the junior Senator from Pennsylvania had the honor of accompanying the President of the United States to Valley Forge, where we visited the International Jamboree of the Boy Scouts. We were met at Valley Forge by the Governor of Pennsylvania and some members of his cabinet. We drove over the great field, where more than 47,000 Boy Scouts were encamped. The boys gathered there represented more than four times the number of soldiers Washington had on that celebrated field during the winter of 1776–77.

Mr. President, that was one of the most inspiring sights I have ever witnessed. Each one of those boys did his own cooking. They were carefully supervised by their scout masters, and by others who had volunteered for the work. Each State of the Union, each Territory and the District of Columbia, and, in addition 18 foreign countries, were represented. I think probably this gathering has done more to promote peace in the world than anything that has been attempted in a long time.

The President of the United States made a most inspiring address to the young Americans gathered there. In addition to the Boy Scouts and those training them, there were thousands who assembled for that important occasion. They were all sitting on the ground in front of the President. It was probably the largest gathering ever addressed by a President of the United States. The President delivered a prepared address, but he deviated from it on several occasions. He gave to those boys, the future leaders of this country, kind and fatherly advice. I feel that his address is of such importance that I now ask unanimous consent that it may be printed in the body of the RECORD as a part of my remarks.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

As honorary president of the Boy Scouts of America, I am proud to open this Scout jamboree. I understand that there are nearly 50,000 Scouts in this encampment. I am glad to see such evidence of the strength of the Scout movement. And I think it most appropriate in times likes these that you have chosen to hold your jamboree at this historic shrine of Valley Forge.

When George Washington brought his army to this spot in December 1777, the cause of independence appeared to be lost. His army at that time numbered only 11,000 men—less than one-fourth the number of Scouts attending this jamboree. Washington's men were without adequate food. They were in rags. Some had no shoes. They had to build their own shelter against the bitter weather. The enemy occupied the capital city of Philadelphia. Few men believed that George Washington's tiny force could survive. Victory seemed out of the question.

But the men of that army stuck it out. They stuck it out because they had a fierce belief in the cause of freedom for which they were fighting. And because of that belief, they won.

I know that we still have, in this country, the same unconquerable belief in freedom.

Many of you know, I am sure, that men from other countries came over here, during our Revolutionary War, to fight with us for freedom. Lafayette, a Frenchman; Von Steuben, a German; Pulaski, a Pole, and many others were here with our army at Valley Forge.

Today, even more than in Washington's time, men in other countries share our belief in freedom and our willingness to make sacrifices for it. These men are just as eager as we are to achieve peace in the world based on freedom and justice. If we are to succeed in our common struggle for peace, we must know and work with these freedom-loving people of other countries. We need to understand their problems and they need to understand ours, so that all of us can work together effectively.

I am very glad that the Boy Scouts are doing so much to further this understanding among people from different countries. You are to be congratulated on sending so many food and clothing packages overseas and on your support of the United Nations appeal for children and the World Friendship Fund.

At this encampment, there are Scouts from every State in the Union, from Alaska, Hawaii, Puerto Rico, and from the Philippines and many other foreign countries. This is a practical demonstration of how to achieve world understanding. When you work and live together, and exchange ideas around the campfire, you get to know what the other fellow is like. That is the first step toward settling world problems in a spirit of give and take, instead of fighting about them.

I wish that more people from foreign countries would visit here and learn about our way of life. When visitors come over here and spend some time with us, they carry back to their home countries a truer picture of what American democracy is really like.

And the same thing is true in the other direction. The more of us from the United States who go abroad, and live for awhile with people in other countries, the better prepared we will be to work with other nations for peace in the world.

I hope that many of you Scouts will have a chance to attend jamborees like this one in other countries. I hope that in the future you will have opportunities to travel and live abroad. Some of you may decide to choose your life work abroad—in business, in religious or educational activities, or in Government.

For those of you who are so inclined, I don't believe you could find more satisfying careers. There is a tremendous amount of pioneering work to be done. In many lands, the people are eager to learn modern methods

of making their lives healthier and more secure. Our young citizens can help to teach modern techniques to the people of those areas, and assist them to improve their health and education, increase their production, and raise their standards of living. Bringing better conditions to the people of these countries will be a great contribution to the cause of peace.

The Scout movement is good training for this kind of international work. Scouting is based on the ideal of human brotherhood. Scouts know that the men of other lands are very like ourselves. They have the same desire to work for human advancement.

The great tragedy of our times is that there are movements in the world that deny this fundamental ideal of human brotherhood. These movements have devoted themselves to preaching distrust between the nations. They have made a religion of hate. They have tried to turn the peoples of the earth against one another—to create a gulf between different peoples that fellowship cannot bridge. As part of this effort, they have tried to poison the minds of young people.

Back in the days of Hitler and Mussolini, the young people of Germany and Italy were regimented in organizations dedicated to the ideas of racial hatred and war. They were shut off from the influence of their families and their churches, and sacrificed to the ambition of the tyrants who led them.

Today, the young people of Communist-dominated countries are being mobilized and marched, in the same fashion, under the hammer and sickle. These boys and girls are being given a completely distorted picture of the world and prevented from learning the truth about other countries. They are being taught to place the state above the obligations of family life. They are being brought up to despise religion and to believe that God does not exist. They are being made into tools of power politics, and their masters will not hesitate to sacrifice their lives if that will advance the cause of Communist imperialism.

This is a sad and terrible thing. You Scouts can understand only in part how sad it is. But your parents can understand the sorrow that afflicts the parents of other lands when they see their children taken from them in this way, turned against the ideals they hold dear, and used to serve the purposes of a godless power.

How can we meet this situation? There is only one way. We must not return hate for the hate which these young people are being taught to feel toward us. We must realize that they are the victims of a cynical group of leaders. We must make it clear to them that we believe in the fellowship of human beings, in the possibility of cooperative human action, and in peace based on mutual understanding. We must show them, over and over again, that fellowship is possible between men of different nations, different colors, and different creeds.

We must continue to hold out to them the invitation to work with us for the common good.

We are deeply and sincerely interested in the well-being of the youth of the world—not only American youth, but young people of all countries. We are working, and will continue to work, for a world in which young people are not regimented and exploited, but instead are given the opportunity to develop their capacities and contribute to a better future.

The United States, together with the other free nations, is striving to build a world in which men will live as good neighbors and work for the good of all. Our program for peace is not directed against the people of any land. It is designed to bring to all people the benefits of justice and freedom.

I hope that you young men in the Boy Scout movement, in this country and other countries, will take home from this jamboree a clearer understanding of the meaning of human brotherhood. I hope that you will work for freedom and peace with the same burning faith that inspired the men of George Washington's army here at Valley Forge.

We cannot succeed in building a peaceful world unless we all work as hard as we know how. I am confident that you will all do your best.

PROSPECTIVE ADJOURNMENT OF CONGRESS

Mr. FULBRIGHT. Mr. President, before I start my remarks about the pending question, I desire to make an observation in regard to the remarks made earlier in the session today by the distinguished, eminent, and successful Senator from Oregon [Mr. MORSE]. Since he is one of several other Senators, including myself, who have been successful in our primaries, I thought perhaps I might be a proper person to observe that I do not think it is quite fitting for those of us whose primaries are over to be too critical of those who still have to face a very difficult race. I congratulate the Senator from Oregon on his success in the Oregon primaries. If I recall correctly, however, he has been absent from the floor 6 or 8 weeks pursuing the matter of renomination in his own State. For him now, after that very successful effort, to say that anyone else from now on who might be interested in doing the same thing would be neglectful of his duty to the country and the Senate I think is being a little hard on our colleagues.

Mr. MORSE. Mr. President, will my good friend from Arkansas yield?

Mr. FULBRIGHT. I yield for a question.

Mr. MORSE. I shall put the question in the form of a statement, in the absence of objection. It will take only 3 or 4 seconds. I wish to point out to the Senate that when I was engaged in my primary race there was no Korean crisis. I will say to the Senator from Arkansas that I expect another tough fight against the Democrats in November as I had against my Republican opposition in the primary. However, I do not think that the Congress should adjourn so that any of us who are up for election can take time to campaign.

Mr. FULBRIGHT. I do not think the race the Senator had against the Republicans was a very difficult one. If I recall correctly, it was a walk-away. I am very happy it was. Nevertheless, I think we have to have some consideration for those who are still looking forward to their primaries and to very difficult election contests.

Mr. MORSE. Mr. President, will the Senator yield again?

Mr. FULBRIGHT. I will yield for a very brief comment.

Mr. MORSE. I am sure the Senator from Arkansas is speaking facetiously, because I know the Senator would not want the Senate to be out of session 1 hour if its presence in session would strengthen the security of the Nation.

Mr. FULBRIGHT. No; I would not. Sometimes, however, I wonder whether our presence here in session makes a tremendous contribution to the security of the country in every instance.

I now wish to address myself to the pending resolution.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

REORGANIZATION PLAN NO. 24 OF 1950

The Senate resumed the consideration of the resolution (S. Res. 290) disapproving Reorganization Plan No. 24 of 1950, providing for the transfer of the Reconstruction Finance Corporation to the Department of Commerce.

Mr. FULBRIGHT. Mr. President, I particularly want to call to the attention of the Senate the statement made a moment ago by the Senator from Vermont [Mr. AIKEN] and to emphasize the fact that he was a member of the Hoover Commission, and that he was a member of the minority of the Hoover Commission which recommended as a minority group that the RFC be transferred to the Department of Commerce. Now, after he has duly considered the matter and has heard some of the evidence and discussion about the RFC, his statement on the floor of the Senate that he is in favor of the pending resolution I think is extremely persuasive, and ought to be considered by anyone who is now thinking of voting against the resolution.

Mr. President, the question before the Senate is the adoption of Senate Resolution 290, resolving that the Senate does not favor Reorganization Plan No. 24, transmitted to the Congress on May 9, 1950. Unless this resolution is approved, the Reconstruction Finance Corporation will be transferred to the Department of Commerce, where, under the terms of Reorganization Plan No. 24, the RFC shall be "subject to the supervision, coordination and policy guidance of the Secretary of Commerce."

The reorganization plan, having been transmitted to the Congress on May 9, under the terms of the Reorganization Act of 1949, must be acted upon on or before July 8.

In order to put this proposal in what I consider to be its proper perspective, I wish to call to the attention of the Senate certain matters of record.

On February 8, 1950, by the adoption of Senate Resolution 219, the Senate authorized the Banking and Currency Committee "to conduct a thorough study of the operations of the Reconstruction Finance Corporation with special attention given to the recommendations of the Commission on Organization of the Executive Branch of the Government with respect to such corporations."

It will be noted that the resolution made particular reference to the recommendations of the Hoover Commission, directing that they be given special attention. Since the President's message referred to the Hoover Commission, and that point has been raised, I think it is quite proper to give some attention to exactly what the Commission did report.

The Hoover Commission, in its Report on Federal Business Enterprises, Recommendation No. 8, states:

We recommend (a) that the Congress review the power to make direct loans * * *

taking into account the problems of economy, efficiency and integrity; (b) that in nonemergency periods, the Congress place restrictions on direct loans in order to insure that the normal channels of credit are utilized to the maximum extent possible or, alternatively, provide for the guaranty of loans made by private or other established agencies.

Recommendation No. 18 of this report is as follows:

We recommend that the Congress review the Reconstruction Finance Corporation in accord with our recommendation No. 8.

In amplification of this recommendation, the Commission expressed itself strongly against direct lending by the Government, as follows:

Direct lending by the Government to persons or enterprises opens up dangerous possibilities of waste and favoritism to individuals or enterprises. It invites political and private pressure, or even corruption. Emergencies may arise in depression, war, national defense, or disaster which must be met in this way. But direct lending should be absolutely avoided except for emergencies.

Pursuant to the resolution, the standing Subcommittee on the Reconstruction Finance Corporation of the Banking and Currency Committee was authorized and directed to make the study of the operations of the RFC. This subcommittee, composed of myself as chairman, the Senator from South Carolina [Mr. MAYBANK], the Senator from Delaware [Mr. FREAR], the Senator from Illinois [Mr. DOUGLAS], the Senator from New Hampshire [Mr. TOBEY], and the Senator from Indiana [Mr. CAPEHART] has been engaged in extensive hearings since shortly after the adoption of the resolution.

On checking the matter this morning, I found that the subcommittee has taken approximately 3,000 pages of testimony in executive and in open sessions. Approximately 2,000 pages of testimony were taken in open sessions, and 1,000 pages of testimony in executive sessions.

We have examined specific loans made by the RFC as examples of the policies and problems involved in that Corporation's activities, and we have also examined into the question of its cost to the taxpayers. We have scheduled hearings on every possible occasion since our authorization.

I may also say that the Senator from Delaware [Mr. FREAR] made a trip to the West and personally inspected and conferred with the RFC officials in Denver and Salt Lake City, and made a very informative report to the subcommittee upon the activities of the RFC in those localities. The subcommittee has not yet had an opportunity to consider the cases and principles involved in this report.

Under the resolution authorizing this study, the committee is to report to the Senate on July 15. Although we are progressing very rapidly, it is certain that we shall not complete our study and report by that date, and it seems probable that we shall have to ask for an extension of time within which to make our report.

As I have already noted, Reorganization Plan No. 24, unless disapproved on or before July 8, will become effective on the following day, July 9. Thus, it is clear that the above-quoted recommendations of the Hoover Commission with respect to a congressional review of the RFC cannot be effectuated prior to the effective date of the reorganization plan.

As pointed out by the Citizens Committee for the Hoover Report, in its testimony presented to the Expenditures Committee, hearings, page 47:

The Hoover Commission in its recommendations upon the Reconstruction Finance Corporation placed major emphasis upon a full-dress review of the RFC's operations by the Congress.

Parenthetically, I should like to call to the attention of the Senate the recommendation of the Douglas Subcommittee on Monetary, Credit, and Fiscal Policies of the Joint Committee on the Economic Report, Senate Document 129, that Congress review the programs and policies of the various Federal credit agencies.

That committee, at page 47 of its report, very concisely stated the problems involved in the following words:

By lending and guaranteeing loans on liberal terms during depressed periods and by following more restrictive policies in periods of high employment they—

Meaning the Federal credit agencies—

can be an influence toward general economic stability and can assist flexible monetary and fiscal policies. But by following quite liberal policies at all times they may actually contribute to instability and at least partially defeat appropriate monetary and fiscal policies.

Mr. President, the review which the Hoover Commission recommended goes to the basic question of the future of the RFC and to the coordination of its policies with the economic situation. This is a far more important question to me than whether or not the RFC should be transferred. It should be decided first, and it is properly to be decided by the Congress. It has a direct bearing on the proper location of the organization within the governmental structure. Obviously, it would be foolish to decide upon the location of an organization before it is decided what that organization should do.

In addition to the recommendations I have mentioned, the Hoover Commission in recommendation No. 3 of its report on the Treasury Department said:

We recommend * * * that the supervision of the operations of the Reconstruction Finance Corporation * * * be vested in the Secretary of the Treasury.

As pointed out by the Citizens Committee on the Hoover Report, in its testimony before the House Expenditures Committee—

The placing of the Reconstruction Finance Corporation in the Treasury Department fits into a definite pattern of the Hoover Commission for supervision and coordination of lending and guaranteeing agencies of the Government. This program would be under a National Monetary and Credit Council, headed by the Secretary of the Treasury and including representatives of the Federal Reserve Board, the Housing and Home Finance Agency, the Farm Credit Administration, the Reconstruction Finance Corporation, and other related agencies.

In recommending the creation of such a Council in its report on the Treasury Department, the Hoover Commission called attention to inconsistencies and overlapping in credit policies. It proposed that lending agencies other than in the farm credit and housing credit fields be placed in the Treasury Department as the department entrusted with the maintenance of the financial integrity of the Government. Thus, under this program, the Treasury Department would be in a position to assure a coordination of credit policies as to domestic business under the RFC and as to foreign business under the Export-Import Bank; also proposed to be shifted to its jurisdiction, and to bring farm and housing credit policies into accord through the National Monetary and Credit Council.

Mr. President, with further reference to the Hoover Commission, I have before me a letter which was addressed to the Chairman of the Committee on Expenditures in the Government Departments by the former chairman of the RFC, and one of its principal creators, Mr. Eugene Meyer. I should like to have all the letter printed at this point in the RECORD, but at this time I wish to read a portion of it. The letter is dated June 23:

MY DEAR SENATOR: Since I appeared before your Committee on Thursday, June 15, I have discussed the matter of the disposition of the Reconstruction Finance Corporation with ex-President Hoover, Chairman of the Commission on Organization of the Executive Branch of the Government.

He informs me that in the discussions within the Commission his personal recommendation was for discontinuance of new business and for transfer of the Corporation to the supervision of the Board of Governors of the Federal Reserve System. The majority of the members of the Commission favored transfer to the Treasury.

Mr. Hoover called my attention especially to the point made in the Task Report, which I quote:

"Except as the temporary response to an emergency, we think, the Federal Government should abandon the concept that direct lending to individuals and business concerns is a Government function."

Mr. President, I now ask unanimous consent that the entire letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WASHINGTON POST,
Washington, D. C., June 23, 1950.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Expenditures,
Senate Office Building,
Washington, D. C.

MY DEAR SENATOR: Since I appeared before your committee on Thursday, June 15, I have discussed the matter of the disposition of the Reconstruction Finance Corporation with ex-President Hoover, Chairman of the Commission on Organization of the Executive Branch of the Government.

He informs me that in the discussions within the Commission his personal recommendation was for discontinuance of new business and for transfer of the Corporation to the supervision of the Board of Governors of the Federal Reserve System. The majority of the members of the Commission favored transfer to the Treasury.

Mr. Hoover called my attention especially to the point made in the Task Report, which I quote:

"Except as the temporary response to an emergency, we think, the Federal Government should abandon the concept that di-

rect lending to individuals and business concerns is a Government function."

On August 12, 1949, I testified before a Senate subcommittee of the Committee on Banking and Currency, of which Senator FULBRIGHT was chairman. I opposed the extension of resources and expansion of powers and liberalization of terms proposed in legislation then under consideration. I recommended the discontinuance of the activities then being conducted.

As I stated before your Committee, the proposal to transfer the Reconstruction Finance Corporation to the Department of Commerce is unnecessary and inadvisable. If it is to be consolidated with the operation of one of the permanently existing institutions, I consider the view of ex-President Hoover that the Corporation should be transferred to the supervision of the Board of Governors of the Federal Reserve System an excellent one.

Very truly yours,

EUGENE MEYER.

Mr. FULBRIGHT. Obviously, therefore, Mr. President, this reorganization plan is directly in conflict with the recommendations of the Hoover Commission, and judging by the letter from which I have just read, is directly in conflict with the personal views of Mr. Hoover. It is contrary to the recommendations of the Hoover Commission, first, because it would place the RFC in the Commerce Department, rather than in the Treasury Department. It is also contrary to the recommendations of the Hoover Commission, in that it would make the transfer effective before the Congress can effectively comply with the prior recommendation that Congress review the RFC and that the Congress place restrictions on direct loans.

Despite the passage of the Reorganization Act of 1949, the Congress has not abrogated its powers to legislate with respect to the organization of the Government. It has merely delegated some of these powers to the President under the Reorganization Act, retaining its own broad powers.

It should therefore be remembered that a transfer of the RFC to a department or to another agency can be accomplished by legislation as well as by a reorganization plan. There is, in my opinion, need for legislation with respect to the RFC; and I believe that the subcommittee of which I am chairman will recommend such legislation.

The President has also recommended legislation affecting the RFC, in his special message on credit requirements of small business, transmitted to the Congress on May 5. Under the terms of legislation introduced in response to the President's message (S. 3625), the powers of the RFC would be expanded. This proposed legislation will be considered, and as a matter of fact, hearings have already been started by the Banking and Currency Committee. If this proposed legislation is to be enacted, there is no reason why a transfer of the RFC cannot be provided in it.

In other words, the future role of the RFC is in doubt—whether it is to be expanded or restricted. The place of the RFC in the organizational structure of the Government can and should be determined when its role in the national economy is determined.

The proposal to transfer the RFC to the Department of Commerce is a part and parcel of the President's program for business credit. Whether or not that program is to be enacted, should be and is a question before the Congress. The location of the RFC is and should remain a question before the Congress.

This reorganization plan would preclude to a great extent the work of the subcommittee on the RFC. We have been examining the RFC from the standpoint of its operations as an independent agency. This is an entirely different question from its operation as a subservient office or instrumentality of an executive department of the Government.

The RFC is not, of course, a regulatory agency or a quasi-judicial or a quasi-legislative body. It is, however, an organization of great power to dispense public funds. Its legislative charter, Public Law 548 of the Eightieth Congress, gives to the Board of Directors extremely broad, if not absolute, discretion to make any loan it wishes to make within its over-all monetary authorization.

As a practical matter, the limitations upon the powers of the RFC are just about what the Board of Directors wish to make them.

Under the terms of the act, the Board is required to find that financial assistance to the borrower is not otherwise available on reasonable terms. The question of availability, of course, is determined by the Board itself, there being no legislative standards. In practice, this determination has been most perfunctory, in many cases amounting to a notation in the record, such as that a particular bank refused to make the loan. There is no requirement, nor is any effort made by the RFC, to ascertain whether or not stock could have been sold, or whether or not equity capital could have been raised. That particular limitation in the act is almost meaningless because of the way it has been and can be administered.

Likewise, under the act, the financial assistance must be on "reasonable terms," as determined by the RFC. There is no further definition and there is no review of such a determination. If it is felt that a borrower could not find money at 4 percent in a highly speculative venture, RFC can determine that the money is not available on "reasonable terms," although the market value on loans of that character might be 6 percent.

A loan is required to be "of such sound value or so secure as reasonably to reassure retirement or repayment." This question again is one entirely for the RFC's determination, and there is no review of the determination.

The RFC now has a total loan authorization of $3,880,000,000. Of this amount, $2,750,000,000 is allocated by statute or by legislative history to the purchase of mortgages by the Federal National Mortgage Association. The remainder is allocated as follows:

For business loans, $825,000,000.

Public agency loans, $200,000,000.

Catastrophe loans, $40,000,000.

Prefabricated housing loans, $50,000,000.

Insurance company loans, $15,000,000.

These authorizations are in the nature of revolving funds. As collections are made, they are subject to further loans. In other words, the authorization is for the continuing use of that much money without further authorization or appropriation by the Congress.

Mr. President, although I think that Reorganization Plan No. 24 is untimely, my opposition to it is based on more fundamental grounds.

Despite the inclination to call the RFC an "executive agency," it is in reality an independent agency. It has certain responsibilities to the executive branch, of course, in that it makes reports to the President, and in that its Board of Directors is appointed by the President, subject to the advice and consent of the Senate.

It also has responsibilities to the Congress. The Reconstruction Finance Corporation is a corporation. It is not an agency, bureau, or an administration. It is a corporation operating under a charter devised by the Congress. It reports to the Congress and its obligation to comply with the terms of its charter are to the Congress.

The Corporation cannot be said to be an executive agency in any sense other than that it is not legislative nor judicial. If every organization of the Government must be arbitrarily placed in one of the three classifications—legislative, judicial, or executive—then and then only will the RFC be considered an executive agency and then only in the sense that it executes laws passed by the Congress.

As a matter of fact, the primary consideration for the creation of a corporation as distinguished from a bureau or an administration or agency is to achieve that independence of both Congress and the President which only a corporation may have. An independent corporation is relieved of the obligation of coming to Congress for appropriations and it is relieved of the obligation of justifying its expenditures to the Comptroller General before the money is expended. The only appropriations, I may say, which the Congress makes are purely for administrative expenditures—that is, the pay roll. But in the case of the RFC we do not make appropriations of the money which is used in its principal business, which is the making of loans.

It is inconsistent with the character of the activities for which the RFC is responsible, to place its Board of Directors under the supervision of the head of any department in the executive branch of the Government. Under the RFC Act at the present time and under every act which has governed the RFC since its existence, the management of the Corporation has been vested in its Board of Directors whose members have been appointed by the President with the advice and consent of the Senate. It has never been the intent of Congress that the management be vested in the head of one of the executive departments.

It is true that for a time—as a matter of fact, for exactly 3 years—the RFC Board of Directors functioned under the Secretary of Commerce. For the RECORD, I may say that on February 24, 1942, Executive Order 9070 transferred the Federal Loan Agency to the Department of Commerce. Then on February 24,

1945, exactly 3 years later (59 Stat. 5), the RFC was restored to independent status. But the circumstances inspiring that transfer were unique. The Secretary of Commerce during that period was Mr. Jesse H. Jones, who had been the Chairman of the Board of RFC, and who, at that time of his appointment to the position of Secretary of Commerce, was serving as Federal Loan Administrator. The Executive order which placed the RFC under the Secretary of Commerce reflected simply the intent of Congress that Jesse Jones should continue to be the general manager of the RFC, notwithstanding his accepting also the added responsibilities of the Commerce Department.

Jesse Jones had become the symbol of the RFC's autonomy and political independence. Continuing him in office as Federal Loan Administrator, despite his appointment as Secretary of Commerce, was tantamount to a reaffirmation of the Congress's intent that the RFC should be an independent agency.

But when Mr. Jesse Jones left the office of Secretary of Commerce, the lending agency was, as I have noted, recreated an independent agency in law as well as in fact because Jesse Jones would no longer be its head.

I think it is fair to say it has never been the intent of Congress at any time since the creation of RFC in 1932 that it be other than an independent agency.

The report of the Senate Banking and Currency Committee (Rept. No. 974, 80th Cong.) on the act under which RFC now operates, had this to say with respect to the independence of the Board, reading from page 13:

> It is the opinion of this committee that, in those fields in which RFC has the responsibility for its actions, it should be allowed to exercise its discretion free from interference by other governmental agencies and departments and, for that matter, free from all influence whether from officials in the Government or from Members of Congress. Only under those circumstances can RFC be expected to do its job properly and with full accountability. Attempts to influence the business judgments of RFC by the use of political influence, even though well intended, are a constant menace to sound administration.

These are the words of the committee report—not my words.

> While the general policies of the RFC, like those of other Government agencies, should be reviewed and coordinated by the President, this general review should not extend to particular loans. The business decisions of RFC should be the independent judgments of its Board of Directors.

While I said those words were not mine but the words of the committee, I did not mean in any sense to dissociate myself from them. I endorse them completely, and I think the statement is an excellent one of what should be the proper function and conduct of this agency.

There are two rather technical, but nonetheless significant, points dealing with the financing of the RFC, which I think the Senate should understand.

In the first place, RFC has always been financed with public debt money, through the sale of its obligations to the Treasury. In other words, the RFC, needing money, simply issues its notes to the Treasury, and draws down the funds. The obligations of the RFC, held by the Treasury, have been regarded as assets of the Treasury. In the Treasury's financial statements, RFC obligations have always appeared as though they had the same significance as any other unexpended funds belonging to the Government.

The terms of RFC's financing have always been such as to leave with the Congress and with the people of the United States, generally, the impression that the funds being used by it and by its borrowers were employed on such a basis as would leave them intact, so that they might later be appropriated by the Congress for expenditure in the conduct of the Government's ordinary affairs.

Congress has not yet forfeited its fundamental right to control the unexpended, unappropriated public money in the custody of the Treasury Department.

Congress has, however, delegated to an independent organization—which the RFC now is—the right to draw upon funds for its use without appropriations. In that connection, I think it appropriate to insert at this point recommendation No. 2, page 12, contained in the audit report to the Congress, by the Comptroller General, dated February 10, 1950, in which Mr. Warren makes the very pertinent recommendation that these funds should be appropriated as a revolving fund. I need not read it now. I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, Recommendation No. 2 was ordered to be printed in the RECORD, as follows:

RECOMMENDATION NO. 2, PAGE 12, AUDIT REPORT TO THE CONGRESS BY THE COMPTROLLER GENERAL DATED FEBRUARY 10, 1950

> 2. The United States Treasury is authorized to supply financing to the Corporation from the proceeds of public-debt transactions. The withdrawal of funds from the Treasury in this manner does not require, and may in fact be utilized to avoid,[1] the appropriation procedures by which the Congress ordinarily makes funds available to Government agencies. We believe that in the interest of financial control by the Congress and simplification of financing methods in the Government, RFC (as well as other wholly owned Government corporations) should be financed solely from revolving funds appropriated for that purpose.

Mr. FULBRIGHT. This reorganization plan would have the effect of delegating from the Congress to the executive branch the control of an important segment of the unappropriated funds of the Government. It is, therefore, to a limited but important degree, an abrogation of the Congress' fundamental constitutional power and duty to control the purse strings of the Government.

Another important technical aspect of this problem is the RFC's use of Government funds without the payment of interest.

Theoretically the RFC has been a self-sustaining Government enterprise. Under its present law, it is still in form a self-sustaining enterprise.

[1] See audit report on RFC for fiscal year ended June 30, 1945 (H. Doc. 316, 80th Cong., p. 25).

Actually it is not. The RFC has interest-free use of $350,000,000 of Government capital upon which the Treasury itself pays interest.

The Banking and Currency Committee has on two occasions during this session amended the basic acts of Government corporations to require the payment of interest on Government-supplied capital. I may say that the present occupant of the chair, the junior Senator from Illinois [Mr. DOUGLAS], was very instrumental in having this change brought about in those two instances, which were in connection with legislation on the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. The Comptroller General of the United States has recommended that the same principle be applied to the RFC, as I have just noted in the recommendation which I inserted in the RECORD.

Once before, on June 11, 1947, the Comptroller General made this further observation about the distinction between capital stock and borrowed money:

> The distinction between the capital stock of the Corporation and its capital borrowed from the Treasury be discontinued, since this distinction has ceased to have genuine significance. The full amount should bear interest at the rate at which the Treasury has borrowed the funds in order that the accounts of the Corporation may reflect the full cost to the Government of activities conducted by the Corporation.

This circumstance, that the Corporation has the interest-free use of $350,000,000 of Government money, was sufficient to transform a reported profit of $5,226,000 into a loss of $6,448,000, for the fiscal year 1949.

I desire to make it clear that since the beginning of RFC, and particularly during the 1930's and in the early 1940's, when it was relying upon assets which had been acquired, the fund showed a profit over all, but in the current operations that is not the case.

Thus, the effect of this reorganization plan is not only to give an executive department of the Government authority to use public money without appropriation, but it is also to grant that power, without requiring the payment of interest, on a portion of those funds.

The net effect of these two considerations is that an executive department could and would loan money and suffer losses of public money without the requirement of an appropriation by Congress.

Mr. President, may I ask how much time I have remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 30 minutes.

Mr. FULBRIGHT. Assuming the approval of Reorganization Plans 22 and 23, by this plan we would, in effect, give to the continuing use of an executive department, not less than $1,080,000,000, almost one-third of which would be interest-free.

Assuming a cost-of-money charge of 2 percent, we give to the executive authority to expend annually, and finally, $7,000,000, 2 percent of $350,000,000, without appropriation. We would, I believe, violate the spirit, if not the letter, of the

constitutional provision of article I, section 9, clause 7, that:

> No money shall be drawn from the Treasury but in consequence of appropriations made by law.

I have already indicated the extremely broad powers of the Board of Directors of the RFC with respect to the approval of loans—in other words, the disbursement of public funds.

To illustrate further, compare this process with the processes which Congress itself goes through in the appropriation of funds to be spent by the executive departments.

In the Texmass Petroleum Co. loan, two of the five members of the RFC Board authorized the disbursement of $10,100,000. In the Kaiser-Frazer loan, $44,000,000 of public funds were lent to a private enterprise for private profit. As a practical matter, does not this expose the public funds to temptations which are difficult to resist?

Furthermore, remember that this disbursement is final and conclusive. In the Texmass Petroleum Co. case, despite a very serious doubt as to the legality of the loan, the Comptroller General advised the committee that there was nothing he could do about it, except to advise the Congress at some later date that it may have been disbursed without authority of law.

Although the full committee and the subcommittee expressed their disapproval of the loan in very strong terms, they had no authority to prevent it.

Under the terms of Reorganization Plan No. 24, the RFC would be "subject to the supervision, coordination, and policy guidance of the Secretary of Commerce."

This language, of course, is broad, general, and vague. However, I think it is clear that, as a practical matter, it gives to the Secretary whatever authority he wishes to exercise. In effect, the Board of Directors would exercise an administrative function only. As I have already pointed out in reading from the report of the Banking and Currency Committee on the basic RFC Act, this is directly in conflict with the view of the committee and of Congress that the RFC should be independent.

Certainly there is no question but that this reorganization plan destroys the independent status of the RFC. That is the intention of the plan.

The question arises: "If this plan goes into effect, who is responsible for the conduct of the Corporation?"

Under the committee's present examination of the RFC, if we find something wrong, we know that the responsibility lies with the Board of Directors. If this plan goes into effect, I do not believe that Congress could determine where responsibility lies. To say the least, it could easily be passed back and forth between the Board of Directors and the Secretary of Commerce. At any rate, it is safe to say that the plan would have the effect of insulating the Board of Directors from the influence of Congress.

Under the accepted principles of our Government, the Secretary of Commerce is a member of the executive family. He looks primarily to the President for policy and for influence. It is customary whenever a cabinet nomination comes up for confirmation by the Senate that the Senate confirms the nomination as a matter of course. We regard cabinet officials, as members of the President's official family and expect them to look to him for guidance. However, we regard the Board of Directors of the RFC as subject to the will of Congress, in the sense that they exercise only those functions and powers which they derive from a congressional charter of incorporation. Under this plan, they exercise only those powers and functions, which I have described as being very broad, but they exercise them "subject to the supervision, coordination, and policy guidance of the Secretary of Commerce."

The task force report for the Hoover Commission sums up this issue as follows, quoting from page 63 of the task force report on lending agencies:

> Since it is a commercial activity involving the management of considerable economic power, the lending activity never should be placed under the supervision of officials who have the Government's political powers at their disposal. A lending agency, we think, has no place within the organization structure of a regular establishment in the executive branch of the Government. It should be independent to the greatest possible extent consistent with the general organization of our Government into three branches. It should report to the Congress as well as to the President of the United States, and it should be exempted from executive orders issued by the President, while at the same time remaining responsive to the general policies adopted by the Government.

The point has been made that perhaps the Reconstruction Finance Corporation needs supervision; that Secretary Sawyer is a good man and he should be able to restrain the RFC.

I also have a high regard for Secretary Sawyer's ability and integrity. But I think it is unwise to decide an organizational question solely upon the basis of the personalities involved. Secretary Sawyer is not immortal, and no one knows who will be Secretary of Commerce in the future. We do know, however, some who have been Secretary of Commerce in the past; and I think it is entirely logical to assume that we may have similar ones in the future.

This reorganization plan is, fundamentally, a slight, but important, step toward the destruction of our traditional system of checks and balances. It concentrates power in the Executive branch of the Government, at the expense, and in derogation, of the powers of the Congress.

It is perhaps true that a certain amount of confusion will be eliminated. Businessmen will know that whatever they want, they should go to the Secretary of Commerce, for the answer to their problems. To be really efficient, and to avoid all confusion in Government, perhaps there should be no Congress at all. There should be but one all-powerful individual or bureau of Government. Mussolini and Hitler were efficient in that sense, and so is the Politburo today. But they were efficient at the expense of the power of the people to govern themselves, and their efficient government brought disaster to their people.

I believe that some degree of inefficiency is a small price to pay for the division of power, as between the Executive and the legislature, which protects the people of this country from the exercise of arbitrary power by the Government.

I mention that point particularly because that seems to have been the main reliance on the part of the proponents of this plan before the Committee on Expenditures in the Executive Departments.

Mr. President, simply by way of background, I ask unanimous consent to insert in the RECORD at this point two very brief editorials, one from the Washington Post of this morning, July 6, on this subject, entitled "Kill It," and the other from the Washington Daily News of July 5 entitled "Reject Plan No. 24."

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post of July 6, 1950]

KILL IT

The Senate votes today on a resolution to kill the plan for transferring the RFC, now an independent agency, to the Department of Commerce. Senator FULBRIGHT, who introduced the resolution, has headed a committee investigating the activities of the RFC that has uncovered some very unsavory instances of political favoritism in extension of loans as well as mistakes of judgment in making loans. When the report of this committee and its recommendations are ready for submission, the Senate will be in a much better position to decide what disposition to make of the RFC.

In the opinion of the Washington Post the time has come to abolish the agency or at least put it on an inactive stand-by basis to be revived only if an emergency arises. In any case the proposal to transfer the RFC to the Department of Commerce is most unwise, since it would then be subjected to increased political pressure. If the RFC is not abolished, it should either retain its independent status or else be transferred to the Treasury Department in accordance with the recommendations of the Hoover Commission.

[From the Washington Daily News of July 5, 1950]

REJECT PLAN NO. 24

The United States Senate is to vote tomorrow on one of President Truman's Government reorganization plans which deserves to be turned down.

This is the so-called plan No. 24, proposing to move the Reconstruction Finance Corporation (RFC) into the Department of Commerce.

Democratic Senator FULBRIGHT, of Arkansas, who is leading the fight for rejection of plan No. 24, has good reasons for opposing it:

1. It is contrary to the Hoover Commission's recommendation—that the RFC be placed under the Treasury Department.

2. The RFC should remain in its present semi-independent status until a Senate investigating committee, headed by Senator FULBRIGHT, has reported its conclusions as to what role, if any, this big Government lending agency should play in the future.

3. Moving the RFC into the Commerce Department might subject it to greater pressure for the making of unsound and politically motivated loans.

Mr. Truman presented plan No. 24 as part of his program for aiding small business. As

other parts of that program, he wants to broaden the RFC's lending powers, relax its collateral requirements and extend the time for repayment of business loans.

But the revelations of Senator FULBRIGHT'S committee justify no confidence that broader RFC lending authority, under the Commerce Department or elsewhere, would be used wisely or with adequate regard for the safety of the taxpayers' money.

Most recent of these revelations concerns a $975,000 loan to a Reno, Nev., hotel which derives most of its revenue from a gambling casino. Then there was the $37,500,000 Lustron loan, involving tremendous loss to the Government. And there have been numerous other loans which, in the kindest possible light, must be described as examples of bad judgment.

Senator FULBRIGHT asserts correctly that the President's plan for easier, longer term RFC loans to small business is really a proposal for subsidies and—if it is carried out at all—should be frankly recognized as such.

The House approved plan No. 24 last week, but without a roll-call vote and with almost half of its Members absent.

This newspaper believes that the Senate should reject that plan.

Mr. FULBRIGHT. Mr. President, I believe that completes my remarks.

Mr. MYERS. Mr. President, I yield 2 minutes to the Senator from South Dakota.

AGREEMENT GIVING SENATOR MUNDT THE FLOOR ON MONDAY FOLLOWING VOTE ON PIKE NOMINATION

Mr. MUNDT. Mr. President, my reason for asking for 2 minutes to address the Senate is to propound a unanimous consent request, and to explain it so that every Senator may know what I have in mind. Late yesterday afternoon the majority leader, the Senator from Illinois [Mr. LUCAS] undertook to lecture the junior Senator from South Dakota concerning some of the precedents of the Senate. During the interim I have had an opportunity to go into the precedents, and to investigate the background of the activities of the Senate in this connection. I had planned to present the result of my findings on this question today. However, inasmuch as the Senator from Illinois is in his home State, I do not wish to do this in his absence, since I shall refer to him in my remarks. So that Senator LUCAS may be here at the time, and be duly notified in advance, I ask unanimous consent therefore that after the vote on the nomination of Commissioner Pike on Monday next, I be permitted to address the Senate.

Mr. MYERS. Reserving the right to object, I understand that the only purpose of the unanimous-consent request is that the Senator from South Dakota may address himself to the precedents of the Senate, and for no other purpose.

Mr. MUNDT. And to have the Senator from Illinois present when I devote myself to commenting on his observations of late yesterday afternoon.

Mr. MYERS. If that is the only purpose of the Senator from South Dakota, of course I have no objection. If his purpose were to move that the Senate proceed to the consideration of any proposed legislation, I would object.

Mr. MUNDT. There is no purpose to make any motions, I assure the Senator. My only purpose is to schedule my remarks so that the Senator from Illinois can be here when I address myself to the question of the precedents of the Senate with regard to the rights of a minority Senator to propose actions to be considered by the Senate.

Mr. MYERS. With that understanding, Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from South Dakota? The Chair hears none, and the unanimous-consent request is granted.

REORGANIZATION PLAN NO. 24 OF 1950

The Senate resumed the consideration of the resolution (S. Res. 290) disapproving Reorganization Plan No. 24 of 1950, providing for the transfer of the Reconstruction Finance Corporation to the Department of Commerce.

Mr. FULBRIGHT. Mr. President, I yield 10 minutes to the senior Senator from Kansas.

Mr. SCHOEPPEL. Mr. President, I desire to speak for a short time in favor of Senate Resolution No. 290, submitted by my distinguished colleague the Senator from Arkansas [Mr. FULBRIGHT], which expresses disapproval of Reorganization Plan No. 24 of 1950.

My reasons for opposing the transfer of the Reconstruction Finance Corporation to the Department of Commerce are primarily a matter of principle, but, even if I had had no personal convictions in the matter, the hearings on the plan, all of which I attended, would have been thoroughly convincing that the transfer is exactly the sort of thing which should not be permitted to occur.

In the first place, this plan has been submitted to the Congress under the Reorganization Act of 1949, which itself was enacted so as to permit the prompt reaping of benefits from the work of the Hoover Commission. Yet, the plan is in direct violation of the majority recommendation which the Hoover Commission made with respect to RFC. As a matter of fact, the divergence of opinion within the Hoover Commission on this particular subject is amazing. For example, it is a matter of record that former President Hoover himself, Chairman of the Commission, favored transfer of RFC to the Federal Reserve System. A minority of the Commission, consisting of Commissioners Aiken, Pollock, and Rowe, wished to see RFC placed within the Commerce Department. Obviously on a compromise basis, the Commission finally arrived at a majority recommendation for transfer of RFC to the Treasury Department. This plan then, while conforming to the views of a three-man minority, conflicts with the majority recommendation which is itself a compromise recommendation.

This profusion of ideas as to the proper destination of RFC was reflected in the hearings held on June 14 and 15 by the Senate Expenditures Committee, of which I have the honor to be a member. We heard testimony from a total of nine witnesses, of whom seven opposed the plan and only two supported it. The views of the plan's opponents naturally varied in accordance with their particular interests in the case, but there was one point of remarkably general agreement, and that is the deep-rooted fear that the merging of the Reconstruction Finance Corporation with the Department of Commerce would expose the Corporation to irresistible partisan political influence. This point of view was exemplified in the testimony of Mr. Eugene Meyer, a former Chairman of RFC and the author of the original Reconstruction Finance Corporation Act. Mr. Meyer emphasized that, in the drafting of that legislation, no consideration whatsoever was given to constituting RFC as anything but an independent organization. So far as the argument that RFC should be within the Commerce Department because of the Corporation's function of making business loans is concerned, Mr. Meyer directed attention to the inconsistency of arguing for such a transfer while still permitting other agencies engaged in similar activity to remain outside the Department of Commerce.

As Mr. Meyer said, if the argument of putting into the Commerce Department every agency that has to do with business in one form or another is followed, Commerce must eventually encompass such other activities as the Federal Reserve Board, the Interstate Commerce Commission, the Federal Trade Commission, the Tariff Commission, and many other activities, including some in the Department of Agriculture.

Mr. President, in my opinion, the Congress has acted with profound wisdom in creating and continuing RFC as an independent agency. The plain fact is that the wide scope of its lending activities, which reach into every phase of the Nation's economy, logically precludes identification of RFC with any one Federal instrumentality. It makes loans, according to its statutory authority, for the promotion of agriculture, commerce and industry. It also assists in the encouragement of small business, the development of certain types of public projects, and in the alleviation of disasters. In view of that latitude of operation, it is impossible to establish any more affinity with the Department of Commerce than with any other particular Federal agency.

Reorganizational aspects aside, it is my conviction that one of the best reasons for voting in support of Senate Resolution 290, and thus against this reorganization plan, is that I am convinced that merging RFC with the Department of Commerce, or with any other executive department, will lead inevitably to the disintegration of the acknowledged or hoped for impartiality which, by and large, has been an outstanding characteristic of the administration of its programs. I am afraid that, regardless of present intentions, such a transfer would ultimately see the reflection of political policies in RFC policies, and the potential effect of RFC on the Nation's economy is too great to take such a risk.

Mr. President, I am fully aware that those RFC policies just referred to have not always been good or sound policies.

In fact, it seems to me that one of the favorite subjects of the press these days is criticism of RFC policies. I may say that criticism is not without justification. Such incidents as the Lustron and Texmass loans and others are painfully well known to everybody. It may be that one of the thoughts behind Reorganization Plan No. 24 is the submerging of RFC in the bureaucracy of an executive department, thereby not only removing it from the present undesirable limelight, but also at the same time providing it with a shelter from future unwelcome scrutiny. I do not know about that, but it has occurred to me that just such a thing may be a factor in the submission of this plan. I think so because it seems a little too obvious that this proposed strategy of consolidating RFC with the Commerce Department is for the primary purpose of aiding and abetting a program of more and more assistance to many businesses and more and more loans of all kinds on an easier and easier basis. Surely, any broader lending program must lead to more instances of the Lustron variety, and it is certainly conceivable that the more remote from close observation the lending agency would be, the happier would be the policy makers.

I think it is most important in this respect that we not forget that there is sound reason to believe that some of the worst instances of apparent bad judgment of the RFC Board of Directors have been the direct result of political pressure brought by the administration in power. It is not hard to conceive that such pressure will be many times increased should the Corporation be made subservient to a Cabinet officer.

In conclusion, Mr. President, I fully endorse the position of the distinguished Senator from Arkansas that, if this plan is permitted to take effect, much, if not all, of the work of his subcommittee now investigating RFC will be nullified. I may say at this point that I think the Fulbright subcommittee has done a magnificent job. I know that many things have been brought out that will reflect a situation which needs on the part of this Congress or future Congresses prompt corrective measures. I say most emphatically that I believe time and effort should be directed to establishing some of the corrective features which Congress will have before it when the committee finally makes its report.

In addition to being fundamentally unsound, Reorganization Plan No. 24 is about as untimely as it could possibly be. That untimeliness is simply another factor adding to the conflicting views regarding RFC. Incidentally, Mr. President, reverting for a moment to those conflicting views, Mr. Jesse Jones, one of the former Chairmen of the Corporation, has recommended, as we all know, the outright abolition of RFC, with the suggestion, as I recall it, that the Corporation be given a decent burial. Not only does this plan disagree completely with the Hoover Commission recommendation in the report on the Treasury Department, but it circumvents the present investigation which is itself being made pursuant to other Hoover Commission recommendations. In its report on Federal business enterprises, the Hoover Commission, in recommendations 8 and 18, recommended that the Congress review the Reconstruction Finance Corporation and prescribed the direction which the investigation should take. Now we have a situation where we are asked to proceed on a corollary recommendation before we can finish acting on the previous ones.

Mr. President, another reason which causes me to oppose Reorganization Plan No. 24 is the fact that the war clouds are becoming darker and darker day by day. During the last war, the Reconstruction Finance Corporation was the organization of the Federal Government that provided the first aid. As a result of its broad authority and independent status, RFC was able to proceed immediately toward production and procurement of strategic materials. The role which RFC played in the national defense can scarcely be overemphasized and I fear that the time may soon arrive when we will be thankful that we have such an agency at hand.

If the Senate permits RFC to become a part of the Department of Commerce, or of any other agency, it will be encumbering the ability of the Corporation to act quickly in an emergency. This is in no sense an intimation that there would be less desire to act quickly on the part of a Cabinet officer or any other supervising official, but the fact is that whenever another layer of authority is added, there is more red tape. It is my fervent hope that this reason for retaining RFC as an independent agency may never materialize, but we would be naive indeed were we to overlook such a contingency.

Considering everything, Mr. President, I regret that I can find nothing favorable about this plan. As we all do, I favor intelligent and timely reorganization in the interest of greater efficiency and greater economy. This plan simply does not measure up to that yardstick. I shall vote for Senate Resolution 290, to defeat this plan, and I sincerely hope that my colleagues in the Senate will do likewise.

Mr. MYERS. I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 10 minutes.

Mr. MYERS. Mr. President, before I address myself to Senate Resolution 290, I wish to say that I sincerely trust that the vote on the resolution will not be considered an indication of the view of the Senate as to whether or not RFC should be abolished. We have heard here today that some have advanced the theory that it is about time to liquidate the RFC. Regardless of the outcome of the vote about to be taken, I sincerely trust that it will not be interpreted to mean that the Senate believes the RFC should be liquidated, because I know that in my State of Pennsylvania there are many industries, many businesses, which would not be operating today if it were not for loans granted by the RFC. There are many communities in which there would be serious unemployment if it had not been for the loans granted by the RFC. There have been in my State instances of commercial banks having turned down industries, which later went to the RFC, and after the RFC indicated that they would make the loans, then the commercial banks in the localities granted the loans which theretofore they had refused. So I think this agency plays an important part in the economy not only of my State, but in the economy of the entire Nation, and it would be bad indeed if the vote on the pending resolution should be interpreted as indicating that it is the will of the Senate that the RFC should be liquidated.

Mr. President, Reorganization Plan No. 24, in my estimation, is an integral part of the President's small-business program, on which the Senate Committee on Banking and Currency is now holding hearings. Transfer of the RFC to the Department of Commerce was recommended by the President in his small-business message to Congress on May 5, 1950. Originally it was intended that this transfer would be accomplished by legislative provisions in the bill to carry out the President's small-business program. However, before the message on small business came to the Capitol, I understand the President consulted with some interested Members of the Senate as to whether they preferred that the transfer be sought by legislation or by a reorganization plan. I understand, too, that they indicated that they perferred the reorganization-plan method, and President Truman followed their advice. I believe it would be a substantial blow to the small-business program if this reorganization plan were not approved.

Mr. President, to my mind the plan would improve the reorganization of the executive branch of the Government.

First. The RFC, whose functions are to aid in financing agriculture, commerce, and industry, to encourage small business, to help in maintaining the economic stability of the country, and to assist in promoting maximum employment and production, would be brought under the Cabinet member whose departmental responsibility is broadly to foster, promote, and develop the industry and commerce of the country.

The RFC, one of the three Government corporations still remaining outside the Cabinet structure, would thereby be brought into the Department whose major purposes it shares if Reorganization Plan No. 24 were approved.

Second. Coordination of the RFC within the broader framework of the Department would permit improvements in policy making, programing, and operations.

The RFC Board of Directors would receive supervision, coordination, and policy guidance from the Secretary, who, because of his departmental responsibilities is the most appropriate adviser on the economic and business factors which under its statute the RFC is to take into consideration in forming its general loan policy, and who, because of his Cabinet position, could integrate RFC policy with the general policy of the President.

I may add, Mr. President, that related programs of RFC and other parts of the Department could be coordinated so as

to avoid both duplication and neglect in the meeting of business needs. This would be especially important to small business.

Then, Mr. President, although the Secretary would not have authority to transfer budget or staff from RFC to other parts of the Department, staffs having related duties, both in Washington and in the field, could be brought into suitable operating liaison with resulting improvements in service.

That is my first reason why I believe this plan would improve the reorganization of the executive branch of the Government.

Second, the plan would make the RFC a more responsible instrument of public policy. Why do I say that? I say it because the President's constitutional responsibility toward the RFC as an executive agency would be much better implemented. The power of the Congress to legislate, to investigate, and to control through appropriations would not be affected.

Mr. President, we have heard much today about investigation, and, in passing, I must compliment the very able Senator from Arkansas [Mr. FULBRIGHT] for the fine work which he is now doing in thoroughly invesigating the RFC and the loans which it has made. He is focusing public attention on the mistakes of the RFC, as the Senate, and particularly the Senator from Arkansas, as the chairman of the investigating committee, should properly do. So the Senator from Arkansas is deserving of the high praise of the Senate for his splendid performance, the time he is giving to this problem ,the knowledge he has of the problem, and the results which I am sure will finally accrue from his inquiry and investigation. Yet, I repeat that the President's constitutional responsibility toward the RFC as an executive agency could be much better implemented by this reogranization plan, and the power of the Congress, the power of the Senator from Arknsas, and the power of his committee, to investigate, to recommend legislation, and to control through appropriations, would in no wise be affected by the reorganization plan, if it should become effective.

The President, who cannot give the RFC the direct attention required for its proper supervision, would be represented by a Cabinet member having qualifications as I have already stated.

The Congress which today must address its criticisms of RFC policy either to the Board, whose members are personally involved in the policies under criticism, or to the President, could turn instead to a Cabinet member, who would be closer to the program than the President, and yet not so close as to lack perspective.

And then, Mr. President, the plan would strengthen the Government's efforts in behalf of small business. I particularly plead for the approval of the plan because of its effect upon small business.

The small-business man, unlike large corporations, which can keep well informed on Government programs, will benefit especially from having a single principal spot in the Government where its needs can be dealt with in appropriate terms.

Because the small-business man may require technical or managerial counsel as much as financial assistance, it is important that when he turns to a Government agency all the services, nonfinancial as well as financial, that are available to him, be linked together so that they may be drawn upon as the circumstances of the individual case may warrant.

In that connection I ask unanimous consent to have incorporated in the RECORD as a part of my remarks a statement which was made by Mr. W. E. Willett, Director of the Reconstruction Finance Corporation, on Reorganization Plan No. 24, before the House Committee on Expenditures in the Executive Departments.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF W. E. WILLETT, DIRECTOR OF RECONSTRUCTION FINANCE CORPORATION, ON REORGANIZATION PLAN NO. 24 BEFORE THE HOUSE COMMITTEE ON EXPENDITURES IN THE EXECUTIVE DEPARTMENTS

Mr. Chairman, I am glad to appear before your committee and give my personal views with respect to Reorganization Plan No. 24, which would transfer the Reconstruction Finance Corporation to the Department of Commerce to be administered by the Board of Directors and officers of the Corporation subject to the supervision, coordination, and policy guidance of the Secretary of Commerce. I would like to emphasize that the following comments are my personal views and do not necessarily represent the official views of the Corporation or other members of the Board.

I first became associated with the Reconstruction Finance Corporation in 1934 and my opinions are based upon experience both as an employee and as a director since 1948. We who have been connected with RFC over a period of years have taken a deep pride in the relatively independent position which the Corporation now enjoys in reporting directly to the Chief Executive. However, I must in all honesty admit that this attitude is predicated upon a narrow, personal point of view. I believe you will find that this personal feeling exists with very nearly, if not all, of RFC personnel. It is only human to desire to have direct access to the Chief Executive. However, I fully recognize that one's individual views must be considered in relationship to the broader problem of attaining the most efficient organization of the Government as a whole. I firmly believe that from an organizational point of view, adoption of the proposed plan would not only be to the best interests of RFC but would inure to the benefit of the President, the Congress, and the Nation as a whole, as it is affected by the functions which the Corporation is authorized to perform.

The executive branch of the Government has grown tremendously both in size and complexity since the RFC was established in 1932. I would like to refer specifically to the fact that the Commission on Organization of the Executive Branch of the Government pointed to some of the critical problems resulting from this growth. The Commission stated: "Such rapid growth could not take place without causing serious problems. Organizational methods effective 20 years ago are no longer applicable. The growth of skills and methods of private organizations has long since outmoded many of the methods of the Government. This Commission has found that the United States is paying heavily for a lack of order, a lack of clear lines of authority and responsibility and a lack of effective organization in the executive branch." The Commission's first finding was that "the executive branch is not organized into a workable number of major departments and agencies which the President can effectively direct, but is cut up into a large number of agencies, which divide responsibility and which are too great in number for effective direction from the top." To remedy this situation, the Commission proposed that: "The numerous agencies of the executive branch must be grouped into departments as nearly as possible by major purposes in order to give a coherent mission to each department." Reorganization Plan No. 24 is clearly consistent with the objective set up by the Hoover Commission.

In my opinion there can be no question that the major purpose of RFC today is to assist in promoting the development of American business and industry by rendering financial assistance in eligible cases and in keeping with the objectives of the Congress. This purpose is shared by many of the nonfinancial services which are now furnished to business by the Department of Commerce. The transfer of the RFC to the Department of Commerce will be conducive to better teamwork and will ultimately redound to the benefit of both the RFC and the Department.

I consider the following to be some of the more important advantages which the RFC will obtain as a result of the proposed reorganization. As a member of the President's official family the Secretary of Commerce necessarily has far more frequent contacts with the President than do the RFC directors and consequently would have a better opportunity to discuss RFC matters directly with the President. Through the Secretary of Commerce the Corporation will have a voice in the President's Cabinet. He will be able to bring up for Cabinet consideration various important matters of direct interest to the Corporation. The RFC organization does not have such a spokesman today. Furthermore the Directors will have the benefit of the guidance of the Secretary of Commerce as to the relationship of the RFC program to the broader economic objectives of the Government. For example, the Secretary's counsel will be of great value to the Directors in determining how the Corporation can most effectively encourage small business, help in maintaining the economic stability of the country, and assist in promoting maximum employment and production, which are the purposes set forth in the basic statute of the Corporation. There undoubtedly will be instances where the Secretary can from his vantage point bring to the attention of the RFC Board sources of pertinent information within the Department of which they are unaware. The availability of the facilities of the Department of Commerce will greatly strengthen the Corporation's ability to perform the functions assigned to it by the Congress.

The grouping of all of the Government's major services to business in one department will be of substantial benefit to business as a whole and particularly to small business. The average small-business concern is not as fully informed with respect to these services as are larger business enterprises and is often bewildered by the complexity of existing Government organization. The President has clearly stated the problem in his special message relating to small business. The President said, "It is most desirable that we group these functions together under common supervision. This would simplify government administration. More important, it would make it easier for the small-business man to take advantage of the various types of financial assistance already available or newly provided."

In my opinion RFC has done a very good job in helping small business. However, a combination of RFC's experience in making loans to small business and the know-how of Commerce in giving small business information and technical assistance should make a team hard to beat in providing essential assistance to small business.

Plan No. 24, of course, does not in any way alter the Corporation's relationship to the Congress or reduce the latter's authority with respect to the Corporation's policies and program. On the contrary, it will enable the Congress to obtain from a single Federal official as well-rounded picture of the Government's total program as it applies to business.

The plan is not an extreme departure from the organizational set-up under the Federal Loan Agency, created in 1939. The relationship of the Board of Directors to the Secretary of Commerce will be almost identical with that which it had to the Federal Loan Administrator from 1939 to 1947. During the period from 1942 to 1945, the functions of the Federal Loan Administrator were exercised by the Secretary of Commerce. The functions of the Federal Loan Administrator were to "supervise the administration, and * * * be responsible for the coordination of the functions and activities" of a number of agencies including the RFC; whereas the present plan proposes that the Corporation be administered by its Board of Directors subject to the supervision, coordination, and policy guidance of the Secretary of Commerce. To my mind, the authority to be given to the Secretary of Commerce is very much the same as that which was exercised by the Federal Loan Administrator and subsequently by the Secretary of Commerce. From my experience during the time the Federal Loan Administrator and the Secretary of Commerce exercised supervision over the Corporation, I can state that this arrangement did not result in divided responsibility or confusion as to the respective roles of the Board and the Loan Administrator and the Secretary.

In the fields of housing and agriculture we have already recognized the advantages of grouping both the financial and nonfinancial activities of the Government and I can see no sound reason for maintaining the present gap between such services in the area of business.

Mr. MYERS. Mr. President, I wish to refer briefly to a few of the statements made by Mr. Willett when he appeared before the House committee. He said:

I firmly believe that from an organizational point of view, adoption of the proposed plan would not only be to the best interests of RFC but would inure to the benefit of the President, the Congress, and the Nation as a whole, as it is affected by the functions which the Corporation is authorized to perform.

Then Mr. Willett went on to discuss the Hoover Commission recommendations, and he had this to say:

The Commission's first finding was that "the executive branch is not organized into a workable number of major departments and agencies which the President can effectively direct, but is cut up into a large number of agencies which divide responsibility and which are too great in number for effective direction from the top." To remedy this situation, the Commission proposed that: "The numerous agencies of the executive branch must be grouped into departments as early as possible by major purposes in order to give a coherent mission to each department." Reorganization Plan No. 24—

Said Mr. Willett—

is clearly consistent with the objective set up by the Hoover Commission.

Mr. President, I understand the Hoover Commission recommended that the RFC be transferred to the Treasury Department. I understand that since then there has been some change of heart, some change of view, and that now the Chairman of the Commission believes the RFC had much better be transferred to the Federal Reserve System. Nevertheless, the Hoover Commission did believe that it should not remain as it is, but that it should be transferred to some other agency of Government. I believe that is the import and the impact of Mr. Willett's statement when he indicates that Reorganization Plan No. 24 is clearly consistent with the objectives set forth by the Hoover Commission.

Then Mr. Willett went on to say:

Through the Secretary of Commerce the Corporation will have a voice in the President's Cabinet.

I think it is very important, Mr. President, that the RFC should have a voice in the Cabinet of the President of the United States. Mr. Willett went on to say:

He—

Namely, the Secretary of Commerce—

will be able to bring up for Cabinet consideration various important matters of direct interest to the Corporation.

Mr. Willett went on to make another point when he said:

The grouping of all of the Government's major services to business in one department will be of substantial benefit to business as a whole and—

I emphasize what I stated before—

particularly to small business.

In my opinion—

Said Mr. Willett—

RFC has done a very good job in helping small business. However, a combination of RFC's experience in making loans to small business and the "know how" of commerce in giving small business information and technical assistance should make a team hard to beat in providing essential assistance to small business.

Mr. Willett continued:

Plan No. 24, of course, does not in any way alter the Corporation's relationship to the Congress or reduce the latter's authority with respect to the Corporation's policies and program. On the contrary, it will enable the Congress to obtain from a single Federal official a well-rounded picture of the Government's total program as it applies to business.

I think the statement made by Mr. Willett should command the attention of every Member of this body. I only wish all Members of the Senate could have read his statement. I wish it were possible for every Member of the Senate to have an opportunity to read the statement before the vote is taken at 4 o'clock. I know that is impossible. Nevertheless, I wish to say that usually we find members of various departments or agencies of Government whose department or agency is involved in a reorganization plan, buttonholing Senators, coming to Members of Congress and asking that their department, their agency, be not touched, that they be left alone, that they be not affected by a proposed reorganization plan. Here we have a member of the RFC, a member of the Board, who frankly said to the committee of the House of Representatives that the plan is good, that it will make for better government, and that it will improve not only the relationships between the executive and the legislative but will also be of great help and assistance to small business. It is rather unusual to find an employee of the Government, whether he be in a high or a low position, coming to the Congress and making such a recommendation. The contrary is usually true.

I do not believe that the reorganization plan, if put into effect, would in any way interfere with the investigation now being so ably conducted by the Senator from Arkansas. I feel rather sure that that investigation will continue in the same vein that it has been undertaken by the Senator from Arkansas. I feel that if the agency were transferred to the Department of Commerce the investigation, the study, the inquiry being conducted by the Senator would in no wise be affected.

For these reasons, Mr. President, I trust and hope that the Senate will reject Senate Resolution 290, and will allow the reorganization plan to become law.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Chair is advised that the Senator has remaining 31 minutes.

Mr. MYERS. How much time does the Senator from Arkansas [Mr. FULBRIGHT] have remaining?

The PRESIDING OFFICER. He has exhausted the time under his control.

Mr. MYERS. Mr. President, I yield to the Senator from Arkansas as much time as he may desire.

Mr. FULBRIGHT. I thank the Senator from Pennsylvania.

I now yield 5 minutes to the Senator from Indiana [Mr. CAPEHART].

Mr. CAPEHART. Mr. President, in behalf of myself and the junior Senator from New Hampshire [Mr. TOBEY], who is unavoidably absent, I should like to make a brief statement.

Senate Resolution 219, adopted by the Senate February 9, 1950, instructed a subcommittee of which the able junior Senator from New Hampshire and myself are the minority members, in studying the operation of the Reconstruction Finance Corporation to give special attention to the recommendations of the Hoover Commission. In substance the Hoover Commission recommendations were two-fold; namely, that the policy of direct lending by the Corporation in a peacetime prosperous period should be reviewed by the Congress and that the Reconstruction Finance Corporation be transferred not to the Department of Commerce, but to the Department of the Treasury.

It is to be noted, also, that the Hoover recommendation was that this matter be studied in respect to the RFC's lending in a prosperous, peacetime period.

The subcommittee of which the able Senator from Arkansas [Mr. FULBRIGHT] is chairman, is giving earnest consideration to those two recommendations, and

has developed a great deal of factual information which should serve to enlighten the Congress in its consideration of these recommendations. However, the study by the subcommittee to date has convinced us that the subject is of such complexity and importance that a thorough exploration will require longer than was originally anticipated.

Mr. President, I may say that I do not quite understand why the President submitted to the Congress a reorganization recommendation in respect to the RFC, when the subcommittee was in the midst of studying the entire problem with an open mind.

In effect, Reorganization Plan No. 24 proposes to achieve one of the objectives stated by the Hoover Commission, namely, the inclusion of the Reconstruction Finance Corporation in a department of the Government, while the subcommitte is in the midst of its study of this subject. However, the Hoover Commission recommended that the RFC be transferred to the Treasury Department, I repeat, not to the Commerce Department. The facts and the reasons for and against this proposal and the recommendations of the subcommittee are not yet available to the Congress. Action at this time, therefore, would of necessity be based upon incomplete and inadequate knowledge. The mandate of the Senate to the subcommittee to study and consider the recommendations of the Hoover Commission would prove meaningless after action had already been taken by the Senate on one of the major items which the subcommittee was instructed to explore, namely, whether or not the RFC should be transferred to an executive department.

Mr. CAIN. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER (Mr. HOLLAND in the chair). Does the Senator from Indiana yield to the Senator from Washington?

Mr. CAPEHART. I yield.

Mr. CAIN. By way of argument only, I should like to ask this question: If Reorganization Plan No. 24 is adopted this afternoon, and if at a later date, as a result of the investigation by the Fulbright subcommittee, it is recommended to the Senate that the RFC be retransferred from the Department of Commerce to an independent status, would not the Senate then have to set aside a considerable amount of time for debate, only for the purpose of undoing in the future what we would have done at this time?

Mr. CAPEHART. I think there can be absolutely no question that the Senator is correct.

Accordingly, Mr. President, it would seem to the subcommittee that the presentation of Reorganization Plan No. 24 is premature, and we believe that its consideration should be postponed.

Failure of the subcommittee to complete its study and file its report with the Senate prior to this time is not due to a lack of diligence on the part of the subcommittee. The subcommittee has held 14 public hearings, comprising approximately 1,986 pages of record. In addition, the subcommittee has held 10 executive hearings, comprising approximately 1,061 pages of record. In addition, the subcommittee and its staff have done a great deal of preparatory work on matters which are not yet ready for public hearing.

The subcommittee has filed one report, namely, that on the loan to the Texmass Petroleum Co. The report was unanimously approved by the subcommittee and by the full Senate Banking and Currency Committee, and was submitted to the Senate on May 19, 1950.

The subcommittee has proceded upon the basis that a study of the operations of the Reconstruction Finance Corporation is more meaningful when decisions of the Reconstruction Finance Corporation are examined in the case of specific loans. In other words, in the view of the subcommittee, the lending standards set forth in the Reconstruction Finance Corporation Act are extremely broad and general, and they acquire significance only when they are applied to specific factual situations.

The subcommittee believes firmly in the principle that there should be thorough preparation by the staff of the subcommittee before public hearings are held or reports are filed. In appropriate instances, especially where there is a possibility of reflecting adversely upon individuals, the subcommittee gives preliminary consideration to the subject in executive hearings. The subcommittee believes through this method its public hearings and its reports can be made sounder and more useful to the Senate.

We believe that the Senate desires the subcommittee to do a thorough job, not a superficial one; and we are convinced from our study up to this point that the question of national policy with respect to the Reconstruction Finance Corporation involves basic economic and governmental considerations, and should, therefore, be given the most thoughtful attention by the Congress.

Transfer of the Reconstruction Finance Corporation to the Department of Commerce at this time would, therefore, in our opinion be unwise, since it would constitute a permament and far-reaching disposition of the Reconstruction Finance Corporation before all the facts are in the record and before the agency of the Senate expressly directed to consider this problem has been able to formulate its recommendations.

Mr. FULBRIGHT. Mr. President, I yield 10 minutes to the Senator from Illinois [Mr. DOUGLAS].

The PRESIDING OFFICER. The Senator from Illinois is recognized for 10 minutes.

Mr. DOUGLAS. Mr. President, the issue before the Senate this afternoon is one upon which men of good will and probity may well differ. I recognize the force of the contention that in the interest of more coherent administration, it probably is desirable to reduce the number of independent agencies and to put at least some of them under the direction of the established departments.

It was because of this feeling and because of my desire to make the administrative lines of authority more direct that I have hitherto favored all the reorganization plans which have been submitted to this body.

I regret that I am unable to do so in the present case. It has been my lot to serve on a subcommittee which has been investigating the affairs of the RFC, under the chairmanship of the junior Senator from Arkansas [Mr. FULBRIGHT], who has conducted the inquiry with thoroughness, integrity, and with scrupulous fair play.

Although it is too early to make final and definitive judgments, we have taken sufficient evidence to convince me that there have been grave abuses in the affairs of the RFC, in the loaning of Government money to private interests. I have only to mention the Texmass loan, of approximately $10,100,000; the Mapes loan, of almost $1,000,000; the Ribonwriter loan, which in my judgment should never have been made; and the Lustron loan. In the case of the Lustron loan, to state the matter mildly, the RFC did not effectively prevent a wasteful dissipation of funds which had been publicly derived. Furthermore, the RFC officials, I am convinced, have exhibited an excessive degree of callousness in permitting their officials who have passed on applications for loans, later to accept well-paid positions in the employ of the very companies to which the loans have been made, and have permitted that practice to continue.

Mr. President, I do not wish to make charges against the character of the men who have been in charge of the RFC's activities. That is a grave matter, in respect to which we would do well to observe a proper degree of restraint. Perhaps some abuses are inevitable in connection with these types of loans. Various businessmen, who are unable for one reason or another to obtain loans from banks, are naturally desirous of obtaining loans from the RFC. Sometimes banks want to be bailed out from bad loans which they have made, and seek to unload them upon the RFC. These gentlemen make their applications to the local RFC agency; and if the amount of the application is large or if they have been turned down by the local agency, they then come to Washington. They are, naturally, anxious to have the loans made. They consult their Senators and their Representatives in Congress, and they ask us to use our influence before the RFC. That puts us in a very difficult position, because, on the one hand, we wish to be of service to our constituents; and, on the other hand, we wish to conserve the public funds and to protect them from being improperly invested.

If we are wise, we confine ourselves to introducing the applicants to the RFC and giving to the RFC a letter stating the facts, but making it clear that the RFC is to use its own discretion and its own judgment in deciding the question as to whether or not the loan should be made. If we are incautious, perhaps we go somewhat further. However, I am sure that upon reflection the Members of the Senate will feel that this is not a proper course for them to follow.

However, the businessmen also approach, and, I am afraid, are approached

by, men in Washington who represent themselves as having influence with the RFC—lawyers or expediters, as they are called. These are men who are, as they say, able to influence the making of the loan. Sometimes businessmen seek the expediters, and sometimes the expediters seek the businessmen. But whoever is the pursuer and whoever is the pursued, the two come together after a time. The expediters are paid fees. They are paid fees by the companies which receive the loans. These fees, of course, are derived from the loans which the Government has made and hence they are paid from public moneys. There has grown up around the RFC, I am afraid, this trafficking in political influence, both official and unofficial. I recognize, of course, the difficult position in which the members of the RFC Board and staff are placed. I do not wish to condemn them. I am afraid that it is almost inevitable in a public enterprise of this type. I do not want to say that all Government loans to private business should be discontinued. I think small business suffers real disadvantages in getting credit, and I believe that, in certain lines of industry, investment bankers do not want to finance new firms and permit them to come into the industries. There is a real need to break some of the blockade in banking which now exists. But Government participation in these loans is attended with grave moral and financial risks, and I think the Fulbright subcommittee is beginning to disclose certain of these dangers.

Mr. President, I know it will be contended that if we transfer RFC to the Department of Commerce some of these abuses will be remedied. It is possible that they might be. But what the RFC needs is not so much a transfer of administrative lines of authority as a thorough house cleaning. That is what is needed. What I am afraid would happen if we transferred it to the Department of Commerce is that people would say that the job was done, that the reorganization had been effected, that the eyes of the Secretary of Commerce would be over the affairs of RFC, and that such abuses as exist would be cleaned up. The disease is, however, far more deeply rooted than that. I am afraid, therefore, that this transfer would postpone, if not prevent, the thoroughgoing clean-up which is needed. It would in addition, as several Senators have said, interpose a protective screen between the RFC and the Congress—the screen of a department which would stand between the Corporation and the legislative body and help to protect it from scrutiny.

For all these reasons, therefore, I shall support the resolution offered by the junior Senator from Arkansas and, for the first time, I shall oppose one of the reorganization plans which have been submitted.

Mr. FULBRIGHT. Mr. President, I yield 5 minutes to my colleague the senior Senator from Arkansas, chairman of the Senate Committee on Expenditures in the Executive Departments.

The PRESIDING OFFICER. The senior Senator from Arkansas is recognized for 5 minutes.

Mr. McCLELLAN. Mr. President, I desire to make a brief statement regarding this plan and the pending resolution. As in the case of all reorganization plans, this plan was referred to the Committee on Expenditures in the Executive Departments. It will be noted that the committee reported the plan without recommendation. I felt that the Senate was entitled to know the exact action taken by the committee, and why the committee did not report either favorably or unfavorably on the plan, at the conclusion of the hearings, and when we were able to have an executive session.

As the Presiding Officer knows, and as other Members of this body know, nowadays we experience some difficulty in getting a quorum in order to report bills. On the occasion on which we held the executive session, immediately following the conclusion of hearings, there were present but a bare quorum of seven Members. Two of the Members present expressed the view that they had not yet made up their minds with reference to the plan. One of those present favored the plan. The other four opposed it. But the four who opposed the plan and favored the resolution did not constitute a majority of the committee, and therefore we felt it advisable at that time to report the plan and resolution without recommendation.

At the same time, the committee instructed the chairman to poll the committee and to announce on the floor of the Senate how the committee would vote on it. By that direction, I have had the staff director of the Senate Committee on Expendituers in the Executive Departments poll the committee with reference to this plan. I am advised by him that nine members of the committee favor the resolution and oppose the plan, one member favors the plan, and the other members have made no expression with reference to their positions. Therefore, a majority of about three-fourths of the committe definitely oppose this plan.

Mr. President, I oppose the plan, and I should like to explain briefly why I do so. In the first place, I believe that this lending agency of the Government should be kept independent. I do not believe it should be buried in any department of the Government. The functions of the RFC involve millions of dollars. It involves policies with reference to making loans and with reference to carrying out the functions and purposes of the RFC Act and amendments thereto.

Reorganization Plan No. 24 does not clarify anything. It does not give a line of direct authority, so that it is possible to identify that authority and follow through on it. I call attention to the wording of the plan, which says:

> The Reconstruction Finance Corporation * * * is hereby transferred to the Department of Commerce—

And, Mr. President, listen to this—

> and shall be administered, subject to the supervision, coordination, and policy guidance of the Secretary of Commerce, by the Board of Directors and officers of the Corporation.

When witnesses appeared in favor of this plan, including the Secretary of Commerce and representatives of the Bureau of the Budget, I tried to get them to define what this provision means. What is meant by "policy guidance"? What is mean by "supervision"? Where does the power of the Secretary begin? Where does it end? Where would the responsibility of the Board attach, and where would it stop?

The RFC is presently under investigation by an appropriate subcommittee of the Banking and Currency Committee of the Senate. I compliment my colleague, the able junior Senator from Arkansas, as chairman of that subcommittee, and also the other members of the subcommittee for the very excellent job they appear to be doing, the conscientious job of investigating present policies and practices of the RFC.

I think I can say, without having full knowledge of what has been developed thus far, that very definitely the subcommittee has found and has revealed through its investigation that certain practices and policies are being pursued which need to be corrected. But, Mr. President, we now know whom to hold responsible for whatever is wrong in the RFC. We can identify them, put our fingers on them, call them up on the carpet before the approving committee, as is being done, and inquire into their activities.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLELLAN. Mr. President, may I have one additional minute?

Mr. FULBRIGHT. I yield one additional minute to the Senator.

Mr. McCLELLAN. Mr. President, if this plan should go into effect, we would transfer this agency behind the protective shield of a departmental secretary, and the efforts and work of the subcommittee would be lost. We would also transfer it into a state of confusion, of divided authority. Such a transfer under this plan would be confounding the difficulties which exist today, rather than clarifying or simplifying them.

Mr. President, I believe the plan should be defeated.

Mr. MYERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk called the roll, and the following Senators answered to their names:

Aiken	Green	Martin
Anderson	Gurney	Millikin
Benton	Hayden	Morse
Brewster	Hendrickson	Mundt
Bricker	Hickenlooper	Murray
Bridges	Hill	Myers
Butler	Hoey	O'Mahoney
Byrd	Holland	Pepper
Cain	Humphrey	Robertson
Capehart	Hunt	Russell
Chavez	Ives	Saltonstall
Connally	Jenner	Schoeppel
Cordon	Johnson, Tex.	Smith, Maine
Darby	Kefauver	Smith, N. J.
Donnell	Kem	Sparkman
Douglas	Kerr	Stennis
Dworshak	Kilgore	Taft
Eastland	Knowland	Thomas, Utah
Ecton	Langer	Thye
Ellender	Leahy	Tydings
Ferguson	Lehman	Watkins
Flanders	Lodge	Wherry
Frear	McCarthy	Wiley
Fulbright	McClellan	Williams
George	McFarland	Young
Gillette	McKellar	
Graham	McMahon	

The VICE PRESIDENT. A quorum is present. The quorum call discloses the presence of 79 Senators.

The question is on agreeing to Senate Resolution 290.

Mr. MORSE and other Senators asked for the yeas and nays.

The yeas and nays were not ordered.

The VICE PRESIDENT. The question is on agreeing to the resolution. [Putting the question.]

A majority of the authorized membership of the Senate having voted in the affirmative, the resolution is agreed to.

REORGANIZATION PLAN NO. 22

In accordance with the unanimous-consent agreement entered into earlier today, the Senate proceeded to the consideration of the resolution (S. Res. 299), which is as follows:

Resolved, That the Senate does not favor the Reorganization Plan No. 22 transmitted to Congress by the President on May 9, 1950.

The VICE PRESIDENT. The question is on agreeing to the resolution. Under the unanimous-consent agreement entered into, 1 hour of debate is available, if desired, with the time to be equally divided between the proponents and the opponents, and to be controlled, respectively, by the Senator from Washington [Mr. CAIN] and the Senator from Pennsylvania [Mr. MYERS].

Mr. CAIN. Mr. President, I yield 10 minutes to the Senator from Wisconsin [Mr. MCCARTHY].

Mr. MCCARTHY. Mr. President, in view of the fact that I may not be able to finish my remarks in the 10 minutes available to me, I ask unanimous consent, if I do not complete my remarks, that all my remarks appear together when I obtain the floor later.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MCCARTHY. I do not address myself to the resolution before the Senate. The Senator from Washington [Mr. CAIN] has 10 additional minutes available to him which he kindly allotted to me to discuss a matter of a great deal of importance.

(Mr. MCCARTHY proceeded to address the Senate on the question of the necessity for the protection of the Government against Communists and subversive groups.)

The VICE PRESIDENT. The time of the Senator from Wisconsin has expired.

Mr. MCCARTHY. Mr. President, I shall continue later.

(Subsequently Mr. MCCARTHY resumed and concluded his speech, which appears entire elsewhere in today's RECORD under the appropriate heading.)

Mr. CAIN. Mr. President, Reorganization Plan No. 22, which was submitted by the President to the Congress on May 9, 1950, has for its purpose the transfer of the Federal National Mortgage Association from the Reconstruction Finance Corporation to the Housing and Home Finance Agency. Senate Resolution 299, submitted by the senior Senator from Georgia [Mr. GEORGE] and the junior Senator from Washington, is in opposition to Reorganization Plan No. 22, and was offered because of the following views, shared jointly by the Senators from Georgia and Washington and other Senators.

DISSIMILARITY OF PURPOSE

One of the principal purposes of the Reorganization Act of 1949 was to provide for the grouping, coordination, and consolidation of agencies and functions according to major purposes. The President's message to the Congress dated May 9, 1950, states that one of the purposes of plan No. 22 is to assure the necessary coordination of FNMA's operations with other housing programs.

Mr. President, there is little relation between FNMA's activities providing for a secondary market for Government-guaranteed or insured home-loan mortgages, and the administration of the Government's housing program. FNMA is essentially a credit and banking activity and not a housing activity.

Mr. President, the fact that the functions of several agencies of the Government have relation one to the other does not mean that they all serve the same major purpose. Thus the fact that FNMA buys mortgages insured by FHA has little or no bearing on the functions performed by each. Were this fact any criterion, FNMA should more properly be placed under the jurisdiction of the Administrator of Veterans' Affairs, since in recent months at least 90 percent of the new mortgage loans being acquired by FNMA are home loans guaranteed by the Veterans' Administration.

If Reorganization Plan No. 22, which is the pending business, would result in either substantial economies or greater efficiencies, in my opinion the plan ought to be approved by the Senate this afternoon, but plan No. 22, if adopted, will never improve efficiency or achieve any economies.

Permit me to draw attention to a fact which all of us all too often forget. Section 2 (c) of the Reorganization Act of 1945 requires that in any consolidation of existing agencies, there shall be accomplished an over-all reduction of at least 25 percent in the administrative costs of the agency or agencies involved. No single witness appearing before the committee in opposition to Senate Resolution 299, or in favor of Reorganization Plan No. 22, was able, in reply to the specific question addressed to every witness by the committee chairman, the senior Senator from Arkansas, to establish any economy that would result in the proposed transfer. This point is further established by language found in the committee report which accompanies Senate Resolution 299. I should like to read but a portion of one paragraph, to be found on page 5:

> There is admittedly no prospect of more economy in operation nor of any appreciable increase in efficiency. On the contrary, because of the fact that the plan excludes from the transfer the present officers and directors of FNMA, it would involve the possible risk that both more cost and less efficiency might result should the transfer be effected.

I submit that the present HHFA, itself a creation of a reorganization plan back in 1947, never has complied with the intended purpose of the Reorganization Act of 1945. As a matter of fact, the 1951 budget calls for administrative expenses 400 percent greater than in 1947. The figures are: 1947, $1,518,000; 1951, requested in fiscal budget 1951, $6,000,000. The latter figure is only for the office of the Administrator.

Can we conceivably transfer FNMA to an agency which on the record is budgeted to cost 400 percent more now to operate than it did in 1947? This budgeted increase in HHFA's administrative costs did not contemplate the transfer of FNMA. The $6,000,000 item would have to be increased if FNMA were transferred to HHFA.

In contrast, let us look budgetwise at the RFC. Employees of RFC, in addition to their present duties, are handling FNMA operations without appreciable increase in personnel. This is reflected in the fact that RFC's administrative budget request for 1951, including its existing program covering tin, rubber, war liquidation, and all of its business lending activities in addition to FNMA, shows but a slight increase over 1949 actual expenditures; 1949 expenditures were $26,774,770; estimated for 1951 is $27,690,000.

Transfer of FNMA would place control of the secondary mortgage market under HHFA, and would seriously impair the veterans' home-construction program.

Mr. President, I believe that sentence in itself will be of real interest to every Member of this body, for the Senator from Washington, together with the Senator from Georgia, is merely saying in the sentence that if we transfer "Fannie May" from where it presently is, in the RFC, to the Housing and Home Finance Agency, we run an unnecessary risk of holding in jeopardy the veterans' housing program, which all of us have tried to do so much to accelerate in recent years.

It is a known fact, established by the figures, that the number of FHA mortgages being handled by "Fannie May" are diminishing at a rapid rate. On the other hand, the number and amount of Veterans' Administration guaranteed mortgages being handled by "Fannie May" have been and are daily increasing by leaps and bounds. It would therefore be extremely unwise, I think, for the policy of the Veterans' Administration relative to the present magnificent home-construction program to be dominated in the future by the Housing and Home Finance Agency.

Mr. MUNDT. Mr. President, will the Senator yield?

Mr. CAIN. I yield.

Mr. MUNDT. In view of the apparent injury the proposed transfer would do with respect to the cost of veterans' housing, I wonder whether the Senator from Washington is able to tell us the attitude of any of the veterans' organizations toward the reorganization plan.

Mr. CAIN. The question is an extremely pertinent and legitimate one, and the answer will be given to it in a moment.

Mr. President, during the 11-month period from July 1949 through May 1950, FNMA made commitments to purchase FHA-insured mortgages to the number of 17,798, and in the amount of $253,604,000. In that same period, FNMA

made commitments to purchase 201,192 VA-guaranteed mortgages in the amount of $1,522,842,000. Here we have a dollar ratio, VA to FHA, of 6 to 1. During the same 11-month period, we find that FNMA actually purchased $126,895,000 worth of FHA mortgages and $729,314,000 of VA mortgages, again a ratio, VA to FHA, of 6 to 1. In May 1950 FNMA held, in its portfolio, FHA mortgages totaling $266,865,000, and at the end of the same month held VA mortgages of $774,792,000. Here again we find that the predominant activity of FNMA is in the field of VA mortgages.

These figures, I may say in answer to the question recently submitted by the Senator from South Dakota, vividly portray the compelling reason why four of the veterans' organizations, namely, the Veterans of Foreign Wars, AMVETS, American Legion, and the Disabled American Veterans testified in sturdy opposition to Reorganization Plan No. 22.

The latest release from the Department of Commerce covering new construction activity, dated July 2, 1950, states that—

> Indications are that close to 1,250,000 new dwellings will be placed under construction in 1950, surpassing by far the 1949 record of 1,026,000 and the previous high of 937,000 units in 1925.

This new all-time housing-construction record is evidence of the present smooth operation within the mortgage market. Transfer of FNMA to HHFA, in the opinion of most competent observers in the construction industry, would bring about a decrease in volume and general disruption of the present veterans' housing program.

Mr. President, in conclusion, by way of summary, I should like to state only the obvious. Reorganization Plan No. 22 should be rejected because—

(a) It will cost much more money to administer "Fannie May" if it is transferred to the House and Home Finance Agency than if "Fannie May" remains where it is presently—an agency of the Reconstruction Finance Corporation.

(b) Reorganization Plan No. 22 ought to be rejected because if "Fannie May" is transferred from the RFC to the Housing and Home Finance Agency it will be necessary to select and train an administrative and processing staff. This unnecessary effort will consume weeks and months of precious time.

(c) Lastly, Mr. President, in the view of the senior Senator from Georgia [Mr. GEORGE] and the junior Senator from Washington, Reorganization Plan No. 22 ought to be rejected because if "Fannie May" is taken from the Reconstruction Finance Corporation and taken over by the Housing and Home Finance Agency the booming and healthy veterans' housing program will be disrupted, and injured for at least an uncertain and unknown period of time. Unless this program which has been supported and approved by every Senator on both sides of the aisle can be strengthened and materially assisted by the proposed transfer of "Fannie May" to the Housing and Home Finance Agency common sense dictates that plan No. 22 be rejected.

This plan, sir, could not substantially improve present-day mortgage conditions in America, which are currently both sound and productive, a compliment to everybody, including the RFC and "Fannie May." But the plan, if adopted, could wreck the good things which cover us so beneficially today.

Mr. MUNDT. Mr. President, will the Senator yield?

Mr. CAIN. I yield.

Mr. MUNDT. I wonder if, in addition to the very persuasive and compelling arguments which the junior Senator from Washington has presented so eloquently to the Senate, he would not like to comment on a statement made in the report issued by the Committee on Expenditures in the Executive Departments, in reporting the resolution to the Senate. We point out as follows:

> As a general principle, the committee is somewhat doubtful of the wisdom of disturbing an organization which, by general admission, has in the broad perspective served its purposes well.

In other words, when there are no economies to be effectuated, when there are no efficiencies to be secured, it seems to the committee, and to this speaker personally, to be the height of folly and a reckless experiment merely to be kicking organizations around from one administrative agency to another, thereby causing confusion and increased extravagance.

Mr. CAIN. The Senator from Washington thanks the Senator from South Dakota for the contribution which he has just made to the discussion. Both Senators believe that there should be adopted a reorganization plan only if it improves current conditions and results in a greater efficiency and in the saving of money. Reorganization Plan No. 22 plainly accomplishes neither of these benefits.

Mr. MUNDT. In other words, there is no virtue in the term "reorganization" unless something salutary is accomplished thereby.

Mr. CAIN. The Senator from Washington can only guess, but he thinks that some well-intentioned agents within the executive branch thought that because "Fannie May" had something to do with housing that it ought logically enough to be associated with the Housing and Home Finance Agency. But the Senator from Washington hopes that he made one of his points clear that "Fannie May" is essentially a credit and not a housing activity.

Mr. FERGUSON. Mr. President, will the Senator yield?

Mr. CAIN. I yield.

Mr. FERGUSON. As one of those who voted against the transfer of the RFC to the Commerce Department I should like to ask the Senator a question. Does the testimony show that the proposed plan was made on the basis that the President anticipated that the Reconstruction Finance Corporation's activities would be transferred to the Commrce Department and that then "Fannie May" being only a loaning agency of the RFC, should be transferred to some other department and not transferred to the Commerce Department?

Mr. CAIN. I am not qualified to answer the question just asked by the Senator from Michigan; but logic impels me to say that inasmuch as a few minutes ago the Senate decided to leave the RFC where it is until the so-called Fulbright investigating subcommittee has made recommendations to the Banking and Currency Committee, and eventually to the Senate itself, it follows in sequence that we should leave "Fannie May" where it is; namely, as an agency of the Reconstruction Finance Corporation.

Mr. FERGUSON. Mr. President, will the Senator yield for a further question?

Mr. CAIN. I shall be glad to yield, and to answer the question if time permits.

Mr. FERGUSON. The recommendation of the committee is not either for or against the transfer. Does the Senator care to state to the Senate the number of members of the committee who favored the transfer and the number of members of the committee who opposed the transfer?

Mr. CAIN. I am not a member of the committee; therefore, I do not know how its individual members voted.

However, in a sentence, this is what the committee gave the Senate to ponder over; again I read from page 5:

> The lifting of this going concern—
>
> Namely, "Fannie May"—
>
> from the location which it has occupied since its inception can scarcely be expected to produce administrative economy and efficiency, although it is admitted that its administration might be as effectively conducted by corresponding officials of HHFA.

I should like to say that I think we presently have no right to take an unnecessary risk, when one of our committees says that the best we could look forward to would be that "Fannie May" might be as effectively administered by the Housing and Home Finance Agency in the future as it is presently being managed by the Reconstruction Finance Corporation.

The VICE PRESIDENT. The Senator's time has expired.

AUTHORIZATION FOR APPROPRIATIONS COMMITTEE TO SUBMIT REPORT DURING RECESS OF THE SENATE

Mr. McKELLAR. Mr. President, I ask unanimous consent that the Appropriations Committee, if it reaches a conclusion of its consideration of the omnibus appropriation bill—H. R. 7786—between now and the time when the Senate reconvenes on Monday, may make its report in the interim period.

The VICE PRESIDENT. Without objection, it is so ordered.

MARSHALL PLAN OF IDEAS

Mr. BENTON. Mr. President——

Mr. MYERS. Mr. President, I yield 5 minutes to the Senator from Connecticut.

Mr. BENTON. Mr. President, yesterday Ambassador John Foster Dulles, who has just returned from Korea, concluded his testimony before the Thomas subcommittee of the Senate Foreign Relations Committee—which is holding hearings on my resolution, Senate Resolution 243—with the following powerful

81ST CONGRESS
2D SESSION

S. RES. 290

IN THE SENATE OF THE UNITED STATES

JUNE 1 (legislative day, MARCH 29), 1950

Mr. FULBRIGHT submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

JUNE 26 (legislative day, JUNE 7), 1950

Reported by Mr. MCCLELLAN, without recommendation

JULY 6 (legislative day, JULY 1), 1950

Considered and agreed to

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 24 of 1950 transmitted to Congress by the President on May 9, 1950.

81ST CONGRESS
2D SESSION

S. RES. 290

RESOLUTION

Disapproving Reorganization Plan Numbered 24 of 1950.

By Mr. FULBRIGHT

JUNE 1 (legislative day, MARCH 29), 1950
Referred to the Committee on Expenditures in the Executive Departments

JUNE 26 (legislative day, JUNE 7), 1950
Reported without recommendation

JULY 6 (legislative day, JULY 1), 1950
Considered and agreed to

81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 590

REORGANIZATION PLAN NO. 25 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 25 OF 1950

MAY 9, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 25 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. The plan transfers the function of the National Security Resources Board from the Board to the Chairman of the Board and makes the Board advisory to the Chairman. The plan also provides for a Vice Chairman, appointed by the President and confirmed by the Senate.

The function assigned to the National Security Resources Board by the National Security Act of 1947 is "to advise the President concerning the coordination of military, industrial and civilian mobilization." Proper performance of this function requires action by the Board and its staff in two broad areas:

(1) The conduct of advance mobilization planning which identifies the problems which will arise and the measures necessary to meet these problems if and when the Nation moves from a peacetime into a wartime situation.

(2) The formulation of current policies and programs which will help the Nation achieve an adequate state of readiness against the eventuality of a future war.

The role assigned the National Security Resources Board is clearly one of staff assistance to the President. The Congress recently recognized this fact in its approval of Reorganization Plan No. 4 of 1949 which, pursuant to the specific recommendation of the Hoover Commission, placed the National Security Resources Board in the Executive Office of the President.

The accompanying reorganization plan is designed to make the National Security Resources Board a more effective instrument. Successful performance of the Board's mission requires a wide range of detailed study and analysis to cover all the major aspects of national mobilization. A committee of department heads or departmental representatives encounters some natural difficulties in providing supervision and leadership in such an extensive and detailed activity. The Chairman has the difficult task of exercising discretion as to which matters shall be submitted for Board approval. The departmental members of the Board cannot possibly supervise or approve the Board's extensive and detailed activities and yet, as Board members, must accept ultimate responsibility for all such activities. Likewise, the departmental members are encumbered by the difficulty of having to reach collective and speedy decisions on a great many matters for which they, as Board members, are responsible.

By vesting the functions of the Board in the Chairman, the difficulties of Board operation will be overcome. At the same time, the reorganization plan provides for the continued participation of the several departments and agencies in the task of mobilization planning. This is not only a matter of established policy but also a requirement of the National Security Act. The departments will continue to have representation on the Board. The Board, in an advisory relationship to the Chairman, will be a useful arrangement for obtaining the necessary participation of departments in mobilization planning and for coordination of their activity. It will enable the departments to keep abreast of the total range of security resources planning. Without reliance on the departments for the execution of much of the actual job of mobilization planning, coordination with the total range of governmental policies and objectives would be lost.

The Congress in passing the National Security Act Amendments of 1949 recognized the difficulty which exists when functions of staff advice and assistance are placed in a board-type agency. The National Security Act Amendments of 1949, in clarifying the role of the Chairman of the Munitions Board and the Research and Development Board, strengthened and increased the effectiveness of these staff agencies of the Secretary of Defense by providing for the exclusive exercise of responsibilities by the Chairman. This plan achieves the same objective for the National Security Resources Board.

The accompanying reorganization plan provides for a Vice Chairman appointed by the President and confirmed by the Senate. The tremendous responsibilities of the National Security Resources Board and the heavy workload on the Chairman fully warrant this. Providing the Chairman with a principal associate for the exercise of his responsibilities is consistent with the usual practice in other agencies of the executive branch.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 25 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of a Vice Chairman of the National Security Resources Board. The rate of

compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in Reorganization Plan No. 25 may not in itself result in substantial immediate savings. However, the important objective is maximum effectiveness in security resources planning.

The security of this Nation requires that these steps be taken to enable security resources planning to move forward more effectively. It is for that reason that Reorganization Plan No. 25 is today submitted to the Congress. It is for that reason, and that reason alone, that I strongly urge congressional acceptance of Reorganization Plan No. 25.

HARRY S. TRUMAN.

THE WHITE HOUSE, *May 9, 1950.*

REORGANIZATION PLAN NO. 25 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

NATIONAL SECURITY RESOURCES BOARD

SECTION 1. *Functions of Chairman and of Board.*—The functions of the National Security Resources Board are hereby transferred to the Chairman of the National Security Resources Board, and the Board shall hereafter advise and consult with the Chairman with respect to such matters within his jurisdiction as he may request.

SEC. 2. *Vice Chairman.*—There is hereby established the office of Vice Chairman of the National Security Resources Board. Such Vice Chairman shall (1) be an additional member of the National Security Resources Board, (2) be appointed from civilian life by the President, by and with the advice and consent of the Senate, (3) receive compensation at the rate of $16,000 per annum, and (4) perform such of the duties of the Chairman as the Chairman shall designate.

SEC. 3. *Performance of functions of Chairman.*—The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the National Security Resources Board of any function of the Chairman.

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81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Document No. 609

REORGANIZATION PLAN NO. 26 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

GOVERNMENT REORGANIZATION PLAN NO. 26 OF 1950, EFFECTING REORGANIZATIONS IN THE DEPARTMENT OF THE TREASURY

MAY 31, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 26 of 1950, prepared in accordance with the Reorganization Act of 1949 and effecting reorganizations in the Department of the Treasury. The reorganizations included in this plan are identical with those contained in Reorganization Plan No. 1 of 1950, except that the functions of the Comptroller of the Currency are unaffected by Reorganization Plan No. 26 of 1950.

In transmitting Reorganization Plan No. 1 of 1950 on March 13, I stated that the reorganizations contained therein were essential to clarification of the lines of authority and responsibility in the executive branch. I further emphasized that those reorganizations would put into effect in the Department of the Treasury the principal remaining recommendations of the Commission on Organization of the Executive Branch of the Government affecting the location of management responsibility. I urged the Congress to add its approval to my acceptance of these recommendations of the Commission on Organization.

On May 11 the Senate disapproved Reorganization Plan No. 1 of 1950. The reason for the disapproval was the inclusion of the functions of the Comptroller of the Currency among the responsibilities proposed to be transferred to the Secretary of the Treasury. Accordingly, in order to meet the objection which led to such disapproval and to preserve the major benefits of the disapproved plan, Reorganization Plan No. 26 of 1950 is transmitted herewith.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 26 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Administrative Assistant Secretary of the Treasury. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *May 31, 1950.*

REORGANIZATION PLAN NO. 26 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled May 31, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF THE TREASURY

SECTION 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, and subject to the provisions of subsection (c) of this section, there are hereby transferred to the Secretary of the Treasury all functions of all other officers of the Department of the Treasury and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of the Treasury or to functions vested by any provision of law in the Comptroller of the Currency.

(c) Notwithstanding the transfer to the Secretary of the Treasury of the functions of the United States Coast Guard and of the functions of the Commandant of the Coast Guard, effected by the provisions of subsection (a) of this section, such Coast Guard, together with the said functions, shall operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in section 1 of the Act of January 28, 1915 (ch. 20, 38 Stat. 800, as amended, 14 U. S. C. 1).

SEC. 2. *Performance of functions of Secretary.*—The Secretary of the Treasury may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of the Treasury of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

SEC. 3. *Administrative Assistant Secretary.*—There shall be in the Department of the Treasury an Administrative Assistant Secretary of the Treasury, who shall be appointed, with the approval of the President, by the Secretary of the Treasury under the classified civil service, who shall perform such duties as the Secretary of the Treasury shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 4. *Incidental transfers.*—The Secretary of the Treasury may from time to time effect such transfers within the Department of the Treasury of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

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81st Congress, 2d Session | SENATE | Report No. 1869

REORGANIZATION PLAN NO. 26 OF 1950, PROVIDING FOR REORGANIZATIONS IN THE DEPARTMENT OF THE TREASURY

June 26 (legislative day, June 7), 1950.—Ordered to be printed

Mr. McClellan, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

By authority of the Reorganization Act of 1949 (Public Law 109, 81st Cong., 1st sess., June 20, 1949), the President of the United States submitted to the Congress Reorganization Plan No. 26, providing for reorganizations in the Department of the Treasury. The complete text of plan No. 26 is given in appendix A.

No resolution of disapproval has been filed in the Senate. Nevertheless, this committee, although under no requirement to do so by the Reorganization Act, is reporting favorably on Reorganization Plan No. 26, in order that the Senate may know the result of the committee's consideration thereof, and may have adequate information as to its provisions.

PROVISIONS AND EFFECT OF PLAN NO. 26 OF 1950

Plan No. 26, transmitted on May 31, 1950, repeats the provisions of plan No. 1 of 1950, providing for reorganization of the Department of the Treasury, but now adds to the earlier exemptions the functions of the Comptroller of the Currency. As the President states in his message of transmittal, the disapproval of plan No. 1 of 1950 by the Senate on May 11 was due to inclusion of the functions of the Comptroller of the Currency among the responsibilities proposed to be transferred to the Secretary of the Treasury.

Section 1 of plan No. 26 transfers to the Secretary all functions scattered throughout the Department of the Treasury, except those of hearing examiners, of the Coast Guard in time of war, or when the President so directs (thus far, the same as under plan No. 1), and of the Comptroller of the Currency (added by plan No. 26). The three other sections continue to authorize the Secretary to delegate functions; to appoint an Administrative Assistant Secretary, with the approval of the President, under the classified civil service, at an

annual salary of $14,000; and to transfer records, property, personnel, and funds insofar as needed to carry out the plan.

The statutes controlling the Treasury Department lodge almost all departmental functions in its operating units. At present, powers are now scattered among 9 of the 10 following operating units (No. 9, Division of Savings Bonds, is already directly under the Secretary's control), arranged in order of the number of employees on January 1, 1950:[1]

	Number of employees
1. Bureau of Internal Revenue	53, 068
2. Fiscal Service	9, 907
3. Bureau of Customs	8, 393
4. Bureau of Engraving and Printing	5, 908
5. Coast Guard	4, 963
6. Office of the Comptroller of the Currency	1, 165
7. Bureau of the Mint	1, 137
8. Secret Service	737
9. Division of Savings Bonds	513
10. Bureau of Narcotics	280
Total for Department	86, 990

Plan No. 26 would authorize the Secretary of the Treasury to review the organization of any or all of the 10 major operating units listed above, except the comparatively small Office of the Comptroller of the Currency. He would be empowered to make changes designed to achieve greater efficiency and economy.

Under the provisions of the Reorganization Act of 1949, this plan will take effect upon the expiration of 60 calendar days of continuous session of Congress after the plan is transmitted, unless a resolution of disapproval has been previously introduced, and adopted by a majority of the authorized membership of either of the two Houses.

GENERAL BACKGROUND OF PLANS NOS. 1 TO 6 OF 1950

Plan No. 26 is covered in its general setting by the special message to Congress accompanying Reorganization Plans Nos. 1 to 13 of 1950, respectively, in which the President outlined the purpose of plans Nos. 1 to 6, inclusive, as follows:

> Reorganization Plans Nos. 1 to 6, inclusive, relate to the Departments of the (1) Treasury, (2) Justice, (3) the Interior, (4) Agriculture, (5) Commerce, and (6) Labor. With certain exceptions, these plans transfer to the respective Department heads the functions of other officers and agencies of the Departments. They permit each Department head to authorize the functions vested in him to be performed by any officer, agency, or employee of the Department. In addition, Administrative Assistant Secretaries are provided for each of the six Departments * * *.
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> Through the years the Congress has repeatedly endorsed the policy of holding agency heads fully accountable for all the functions of their agencies. Last year this policy was pursued in the legislation authorizing reorganization of the Department of State and establishing the General Services Administration. A reorganization plan applying this principle to the Post Office Department was likewise approved.
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> However, in the six Departments covered by these plans, all functions are not now uniformly vested in the Department heads. Some statutory authority is held independently by subordinate officers and agencies. These plans extend fully to the six Departments the principles of strengthening departmental management by eliminating the patchwork exceptions that now exist.

[1] Organization of Executive Departments and Agencies, Committee Rept. No. 9, Senate Committee on Expenditures in the Executive Departments, January 1, 1950.

Three of these plans (Nos. 2 (Justice), 3 (Interior), and 6 (Labor)) became law without resolutions of disapproval being filed. Such a resolution was filed on Plan No. 5 (Commerce), and was reported favorably (S. Rept. No. 1561) by the committee, but was rejected by the Senate by a vote of 29 yeas and 43 nays.

Plan No. 1, on which Plan No. 26 is based, was rejected. Senate Resolution 246, disapproving Plan No. 1, was reported favorably by the committee by a vote of 8 to 3 (S. Rept. No. 1518). The committee's action was based on opposition to inclusion of the Comptroller of the Currency. The Secretary of the Treasury, and other witnesses who testified in favor of the resolution of disapproval, expressed no objection to other provisions of the plan. The disapproving resolution was adopted in the Senate by vote of 65 to 13 on May 11, 1950, and Plan No. 1 was thereby rejected.

Witnesses in testifying in support of the original plan reiterated the points raised in the President's messages accompanying the plan, contending that—

1. The plan conforms to one of the most basic recommendations of the Commission on Organization of the Executive Branch of the Government with respect to the administration of executive departments.

2. It establishes clear lines of authority and accountability within the Department of the Treasury, and corrects a great weakness in the executive branch in the "line of command and supervision from the President down through the department heads to every employee, and the line of responsibility from each employee of the executive branch up to the President," as recommended by the Hoover Commission. The plan enables the Secretary to make improvements in the internal organization of the Treasury Department and provides more adequate assistance to manage departmental affairs properly.

CONCLUSION

The committee endorses plan No. 26 and recommends against any action of disapproval by the Senate. Plan No. 26 continues the good features of plan No. 1 to centralize power over the Department of the Treasury in the Secretary, in line with Hoover Commission recommendations. At the same time, it removes the committee's strong objection to plan No. 1, as set forth in Senate Report No. 1518, by exempting the transfer of the functions of the Office of the Comptroller of the Currency to the Department head.

The following appendix includes the full text of the President's message submitted to Congress on May 31, 1950, and Reorganization Plan No. 26.

APPENDIX A

[H. Doc. 609, 81st Cong., 2d sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING GOVERNMENT REORGANIZATION PLAN NO. 26 OF 1950, EFFECTING REORGANIZATIONS IN THE DEPARTMENT OF THE TREASURY

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 26 of 1950, prepared in accordance with the Reorganization Act of 1949 and effecting reorganizations in the Department of the Treasury. The reorganizations included in this plan are identical with those contained in Reorganization Plan No. 1 of 1950, except that the functions of the Comptroller of the Currency are unaffected by Reorganization Plan No. 26 of 1950.

In transmitting Reorganization Plan No. 1 of 1950, on March 13, I stated that the reorganizations contained therein were essential to clarification of the lines of

authority and responsibility in the executive branch. I further emphasized that those reorganizations would put into effect in the Department of the Treasury the principal remaining recommendations of the Commission on Organization of the Executive Branch of the Government affecting the location of management responsibility. I urged the Congress to add its approval to my acceptance of these recommendations of the Commission on Organization.

On May 11 the Senate disapproved Reorganization Plan No. 1 of 1950. The reason for the disapproval was the inclusion of the functions of the Comptroller of the Currency among the responsibilities proposed to be transferred to the Secretary of the Treasury. Accordingly, in order to meet the objection which led to such disapproval and to preserve the major benefits of the disapproved plan, Reorganization Plan No. 26 of 1950 is transmitted herewith.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 26 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Administrative Assistant Secretary of the Treasury. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, *May 31, 1950.*

REORGANIZATION PLAN NO. 26 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled May 31, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF THE TREASURY

SECTION 1. *Transfer of functions to the Secretary.*—(a) Except as otherwise provided in subsection (b) of this section, and subject to the provisions of subsection (c) of this section, there are hereby transferred to the Secretary of the Treasury all functions of all other officers of the Department of the Treasury and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of the Treasury or to functions vested by any provision of law in the Comptroller of the Currency.

(c) Notwithstanding the transfer to the Secretary of the Treasury of the functions of the United States Coast Guard and of the functions of the Commandant of the Coast Guard, effected by the provisions of subsection (a) of this section, such Coast Guard, together with the said functions, shall operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in section 1 of the Act of January 28, 1915 (ch. 20, 38 Stat. 800, as amended, 14 U. S. C. 1).

SEC. 2. *Performance of functions of Secretary.*—The Secretary of the Treasury may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of the Treasury of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

SEC. 3. *Administrative Assistant Secretary.*—There shall be in the Department of the Treasury an Administrative Assistant Secretary of the Treasury, who shall be appointed, with the approval of the President, by the Secretary of the Treasury under the classified civil service, who shall perform such duties as the Secretary of the Treasury shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 4. *Incidental transfers.*—The Secretary of the Treasury may from time to time effect such transfers within the Department of the Treasury of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

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81st Congress } HOUSE OF REPRESENTATIVES { Document
2d Session } { No. 610

REORGANIZATION PLAN NO. 27 OF 1950

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

GOVERNMENT REORGANIZATION PLAN NO. 27 OF 1950, WHICH WILL CREATE A DEPARTMENT OF HEALTH, EDUCATION, AND SECURITY

MAY 31, 1950.—Referred to the Committee on Expenditures in the Executive Departments and ordered to be printed

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 27 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. This plan will create a Department of Health, Education, and Security, as one of the executive departments of the Government, and will transfer to it the functions and constituent units of the Federal Security Agency. The Department will be headed by a Secretary of Health, Education, and Security, who will be vested with essentially the same duties and authority as are now vested in the Federal Security Administrator.

It is unnecessary to recite again the considerations which make the creation of such a department desirable. As I pointed out in my message transmitting Reorganization Plan No. 1 of 1949, such action has repeatedly been recommended by my predecessors and myself, as well as by others who have studied our Government organization. The scope and importance of the functions of the Federal Security Agency plainly warrant departmental status. I feel that there should be no further delay in effecting this essential reorganization.

The present plan is designed to meet the major objections which were raised in opposition to the 1949 plan when it was disapproved by the Senate. A principal criticism of the 1949 plan was that, in centralizing all statutory authority in the Secretary, as recommended by the Commission on Organization of the Executive Branch of the Government, the plan threatened in matters of health and education unduly to subordinate professional judgment to nonprofessional domination. The present plan is not open to this criticism.

Under the present plan, the Surgeon General and the Commissioner of Education retain all the statutory authority and duties now vested in them. The Public Health Service and the Office of Education remain intact as statutory entities with statutory functions. The Surgeon General and the Commissioner of Education will have the same relationship to the Secretary of the new Department that they now have to the Federal Security Administrator.

Furthermore, the present plan provides that the Surgeon General and the Commissioner of Education, along with the Commissioner of Social Security, will report directly to the Secretary. This provision assures that these officials can deal directly with the Secretary in the performance of all matters in their respective fields of responsibility, and the Secretary will thus be in a position to transmit their views to the President and the Congress. It represents an additional safeguard against the fear of the possibility that the views of these officials could be unduly subordinated.

A further difference between this plan and last year's plan is in the name of the new Department. In the minds of some, the title "Department of Welfare," which was used in the 1949 plan, did not adequately comprehend the health and educational functions and implied their subordination. To avoid any possible misunderstanding, the present plan uses the longer and more explicit title, "Department of Health, Education, and Security."

The present plan retains one of the major advantages of the 1949 plan, namely, to permit the Secretary to establish central administrative services for the Department in the interest of efficiency and economy. Thus, he will be able, if he finds such purposes will be served, to centralize for the Department such services as procurement, budgeting, and accounting. This grant of authority is specifically limited so as not to infringe on the substantive professional responsibilities retained by officials within the Department.

Another advantage of the plan is that it provides for a uniform method of appointment for the positions of the Surgeon General, the Commissioner of Education, and the Commissioner of Social Security. Today, two of the three positions are filled by Presidential appointment, while the third is filled by appointment by the Administrator. Though the Surgeon General must be selected from the commissioned Regular Corps of the Public Health Service, no professional qualifications are now prescribed by law for the other two posts. The present plan provides that all three positions be filled by Presidential appointment, subject to Senate confirmation. In each case, appropriate professional qualifications are required and the selection of the Surgeon General from the commissioned corps will become discretionary rather than mandatory.

To the extent that this plan would give departmental status to the agency administering the social-security and educational functions, it is in accord with the one recommendation of the Commission on Organization of the Executive Branch for the creation of a new executive department. I recognize, as I did last year, that the Commission made a further recommendation with respect to the organization of the health functions of the Government. The adoption of this plan will not in any way interfere with further adjustments in the functions of the new Department either by statute or reorganization plan.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 27 of 1950 is

necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949. I also have found and hereby declare that by reason of these reorganizations it is necessary to include in the reorganization plan provisions for the appointment and compensation of the following officers: Secretary of Health, Education, and Security; Under Secretary of Health, Education, and Security; Assistant Secretary of Health, Education, and Security; Administrative Assistant Secretary of Health, Education, and Security; Surgeon General of the Public Health Service; Commissioner of Education; and Commissioner of Social Security. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers of the executive branch of the Government.

The reorganization plan will go far toward providing the status and type of organization which the magnitude and importance of the functions now administered by the Federal Security Agency demand. It will facilitate coordination with other major segments of the executive branch through the granting of Cabinet status. It will provide a more adequate supervisory structure and will contribute to administrative efficiency and economy. Consistent with the Reorganization Act itself, the plan neither provides for any new program nor extends or enlarges existing programs beyond the scope of present legislation.

While it is not practicable at this time to estimate the savings that will accrue from the plan, modest but worth-while economies will result from the factors already cited together with the authority conferred by the plan to improve the administration of the services common to the various agencies of the Department.

The creation of this new Department is long overdue. While I do not believe that the criticisms advanced against plan No. 1 of 1949 were well founded, the present plan has been substantially modified to meet them. I recognize that as a result the present plan falls short of what I would regard, and what the Commission on Organization regarded, as the clearest lines of responsibility and authority within executive departments. Nevertheless, in my judgment, the present plan is still an important step forward toward better organization of the executive branch. It provides an adequate basis for establishing this new executive department. I strongly urge that the Congress allow this reorganization plan to become effective.

HARRY S. TRUMAN.

THE WHITE HOUSE,
May 31, 1950.

REORGANIZATION PLAN NO. 27 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 31, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF HEALTH, EDUCATION, AND SECURITY

SECTION 1. *Creation of Department.*—(a) There is hereby established a Department of Health, Education, and Security, hereinafter referred to as the Department, which shall be an executive department.

(b) All agencies of the Federal Security Agency, together with their respective functions, records, property, personnel, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, and all other records, property, personnel, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, of the Federal Security Agency, are hereby transferred to the Department.

SEC. 2. *Secretary of Health, Education, and Security.*—(a) There shall be at the head of the Department a Secretary of Health, Education, and Security, hereinafter referred to as the Secretary, who shall be appointed by the President by and with the advice and consent of the Senate and who shall receive compensation at the rate now or hereafter provided by law for the heads of executive departments.

(b) All functions of the Federal Security Administrator are hereby transferred to the Secretary.

(c) The Secretary may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of any function of the Secretary.

SEC. 3. *Under Secretary and Assistant Secretary of Health, Education, and Security.*—There shall be in the Department an Under Secretary of Health, Education, and Security and an Assistant Secretary of Health, Education, and Security, each of whom shall (1) be appointed by the President, by and with the advice and consent of the Senate, (2) perform such duties as the Secretary shall prescribe, and (3) receive compensation at the rate now or hereafter provided by law for the Under Secretaries and Assistant Secretaries, respectively, of executive departments. The Under Secretary (or, during the absence or disability of the Under Secretary, or in the event of a vacancy in his office, the Assistant Secretary) shall be Acting Secretary and perform the functions of the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

SEC. 4. *Administrative Assistant Secretary.*—There shall be in the Department an Administrative Assistant Secretary of Health, Education, and Security, who shall be appointed, with the approval of the President, by the Secretary under the classified civil service, who shall perform such duties as the Secretary shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 5. *Other officers.*—There are hereby established, in the Department, the offices of (1) Surgeon General of the Public Health Service, (2) Commissioner of Education, and (3) Commissioner of Social Security. The Surgeon General shall be the head of the Public Health Service and shall perform such other duties concerning health as may be required by law or as the Secretary may prescribe pursuant to law. The Commissioner of Education shall be the head of the Office of Education and shall perform such other duties concerning education as may be required by law or as the Secretary may prescribe pursuant to law. The Commissioner of Social Security shall be the head of the Social Security Administration and shall perform such other duties concerning social security and public welfare as may be required by law or as the Secretary may prescribe pursuant to law. There are hereby transferred to the Surgeon General and to the Commissioner of Education, provided for in this section, all of the functions of the heretofore existing Surgeon General of the Public Health Service and all

of the functions of the heretofore existing Commissioner of Education, respectively. The Surgeon General, the Commissioner of Education, and the Commissioner of Social Security shall each report directly to the Secretary; have professional qualifications, experience, and training appropriate to the duties of his office; be appointed by the President, by and with the advice and consent of the Senate; and (except in the case of a Surgeon General who is a member of the commissioned Regular Corps of the Public Health Service) receive compensation at the rate of $14,000 per annum. The Surgeon General shall hold office for a term of four years. The Surgeon General may be appointed from the commissioned Regular Corps of the Public Health Service, and if so appointed (1) he shall not cease to be a member of such corps by reason of his appointment as Surgeon General, and (2) provisions of law applicable to the heretofore existing office of Surgeon General of the Public Health Service, including those with respect to pay and allowances, shall be applicable to him.

SEC. 6. *Administrative services.*—In the interest of economy and efficiency the Secretary may from time to time establish central administrative services in the fields of procurement, budgeting, accounting, library, legal, and other services and activities common to the several agencies of the Department; and the Secretary may effect such transfers within the Department of the personnel employed, the property and records used or held, and the funds available for use in connection with such administrative service activities as he may deem necessary for the conduct of any services so established: *Provided, however,* That nothing contained in this section shall be deemed to authorize the Secretary to transfer or remove from the control of the Surgeon General, the Commissioner of Education, or the Commissioner of Social Security any professional or substantive functions vested in them respectively under the provisions of this reorganization plan or of law hereafter enacted.

SEC. 7. *Abolitions.*—There are hereby abolished (1) the Federal Security Agency (exclusive of the agencies transferred by the provisions of section 1 (b) of this reorganization plan), (2) the office of Federal Security Administrator, (3) the office of Assistant Federal Security Administrator, (4) the two offices of assistant heads of the Federal Security Agency provided for in section 5 of Reorganization Plan No. 2 of 1946 (60 Stat. 1095), (5) the heretofore existing office of Surgeon General of the Public Health Service, and (6) the heretofore existing office of Commissioner of Education.

SEC. 8. *Interim officers.*—The President may designate and empower any person who is an officer of the Federal Security Agency immediately prior to the taking effect of the provisions of this reorganization plan to perform for a period not exceeding 60 days the functions of any office provided for by sections 2, 3, 4, or 5 of this reorganization plan pending the appointment of the first person appointed to such office. While so performing said functions any person designated hereunder shall have the title of the office concerned, with the prefix "Acting," and, if the President so directs, receive the compensation of such office. No person designated under this section shall by reason of such designation forfeit his rights with respect to his office held immediately prior to the taking effect of the provisions of this reorganization plan.

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81ST CONGRESS
2D SESSION

H. RES. 647

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 1950

Mr. HOFFMAN of Michigan submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 27 transmitted to Congress by the President on May 31, 1950.

81ST CONGRESS
2D SESSION

H. RES. 647

RESOLUTION

Disapproving Reorganization Plan Numbered 27 of 1950.

By Mr. HOFFMAN of Michigan

JUNE 13, 1950

Referred to the Committee on Expenditures in the Executive Departments

81ST CONGRESS
2D SESSION

S. RES. 302

IN THE SENATE OF THE UNITED STATES

JUNE 22 (legislative day, JUNE 7), 1950

Mr. TAFT (for himself, Mr. BUTLER, Mr. SMITH of New Jersey, Mr. BRICKER, Mr. KNOWLAND, Mr. MUNDT, and Mr. HENDRICKSON) submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 27 of 1950 transmitted to Congress by the President on May 31, 1950.

81ST CONGRESS
2D SESSION

S. RES. 302

RESOLUTION

Disapproving Reorganization Plan Numbered 27 of 1950.

By Mr. TAFT, Mr. BUTLER, Mr. SMITH of New Jersey, Mr. BRICKER, Mr. KNOWLAND, Mr. MUNDT, and Mr. HENDRICKSON

JUNE 22 (legislative day, JUNE 7), 1950
Referred to the Committee on Expenditures in the Executive Departments

Union Calendar No. 834

81st Congress, 2d Session } HOUSE OF REPRESENTATIVES { Report No. 2320

REORGANIZATION PLAN NO. 27 OF 1950, TO CREATE A DEPARTMENT OF HEALTH, EDUCATION, AND SECURITY

JUNE 23, 1950.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DAWSON, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany H. Res. 647]

The Committee on Expenditures in the Executive Departments, to whom was referred the resolution (H. Res. 647) disapproving Reorganization Plan No. 27 of 1950, having considered the same, report unfavorably thereon without amendment and recommend that the resolution do not pass.

GENERAL STATEMENT

House Resolution 647 is to express disapproval of Reorganization Plan No. 27 of 1950, transmitted to the Congress by the President on the 31st day of May 1950, and the effect of the adoption of this resolution by the Congress will be to prevent such plan from coming into force and effect on July 31, 1950, mindful, however, that under section (2) (b) of the Reorganization Act of 1949 (Public Law 109, 81st Cong.), that from the 60-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain.

The scope and effect of the reorganization plan, in the absence of a disapproval by a House resolution, are set forth in the plan in the following words and figures:

DEPARTMENT OF HEALTH, EDUCATION, AND SECURITY

SECTION 1. *Creation of Department.*—(a) There is hereby established a Department of Health, Education, and Security, hereinafter referred to as the Department, which shall be an executive department.

(b) All agencies of the Federal Security Agency, together with their respective functions, records, property, personnel, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, and all other

records, property, personnel, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, of the Federal Security Agency, are hereby transferred to the Department.

SEC. 2. *Secretary of Health, Education, and Security.*—(a) There shall be at the head of the Department a Secretary of Health, Education, and Security, hereinafter referred to as the Secretary, who shall be appointed by the President by and with the advice and consent of the Senate and who shall receive compensation at the rate now or hereafter provided by law for the heads of executive departments.

(b) All functions of the Federal Security Administrator are hereby transferred to the Secretary.

(c) The Secretary may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of any function of the Secretary.

SEC. 3. *Under Secretary and Assistant Secretary of Health, Education, and Security.*—There shall be in the Department an Under Secretary of Health, Education, and Security and an Assistant Secretary of Health, Education, and Security, each of whom shall (1) be appointed by the President, by and with the advice and consent of the Senate, (2) perform such duties as the Secretary shall prescribe, and (3) receive compensation at the rate now or hereafter provided by law for the Under Secretaries and Assistant Secretaries, respectively, of executive departments. The Under Secretary (or, during the absence or disability of the Under Secretary or in the event of a vacancy in his office, the Assistant Secretary) shall be Acting Secretary and perform the functions of the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

SEC. 4. *Administrative Assistant Secretary.*—There shall be in the Department an Administrative Assistant Secretary of Health, Education, and Security, who shall be appointed, with the approval of the President, by the Secretary under the classified civil service, who shall perform such duties as the Secretary shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 5. *Other officers.*—There are hereby established, in the Department, the offices of (1) Surgeon General of the Public Health Service, (2) Commissioner of Education, and (3) Commissioner of Social Security. The Surgeon General shall be the head of the Public Health Service and shall perform such other duties concerning health as may be required by law or as the Secretary may prescribe pursuant to law. The Commissioner of Education shall be the head of the Office of Education and shall perform such other duties concerning education as may be required by law or as the Secretary may prescribe pursuant to law. The Commissioner of Social Security shall be the head of the Social Security Administration and shall perform such other duties concerning social security and public welfare as may be required by law or as the Secretary may prescribe pursuant to law. There are hereby transferred to the Surgeon General and to the Commissioner of Education, provided for in this section, all of the functions of the heretofore existing Surgeon General of the Public Health Service and all of the functions of the heretofore existing Commissioner of Education, respectively. The Surgeon General, the Commissioner of Education, and the Commissioner of Social Security shall each report directly to the Secretary; have professional qualifications, experience, and training appropriate to the duties of his office; be appointed by the President, by and with the advice and consent of the Senate; and (except in the case of a Surgeon General who is a member of the commissioned Regular Corps of the Public Health Service) receive compensation at the rate of $14,000 per annum. The Surgeon General shall hold office for a term of four years. The Surgeon General may be appointed from the commissioned Regular Corps of the Public Health Service, and if so appointed (1) he shall not cease to be a member of such corps by reason of his appointment as Surgeon General, and (2) provisions of law applicable to the heretofore existing office of Surgeon General of the Public Health Service, including those with respect to pay and allowances, shall be applicable to him.

SEC. 6. *Administrative services.*—In the interest of economy and efficiency the Secretary may from time to time establish central administrative services in the fields of procurement, budgeting, accounting, library, legal, and other services and activities common to the several agencies of the Department; and the Secretary may effect such transfers within the Department of the personnel employed, the property and records used or held, and the funds available for use in connection with such administrative service activities as he may deem necessary for the conduct of any services so established: *Provided, however,* That nothing contained in this section shall be deemed to authorize the Secretary to transfer or remove from the control of the Surgeon General, the Commissioner of Education, or the Com-

missioner of Social Security any professional or substantive functions vested in them respectively under the provisions of this reorganization plan or of law hereafter enacted.

SEC. 7. *Abolitions.*—There are hereby abolished (1) the Federal Security Agency (exclusive of the agencies transferred by the provisions of section 1 (b) of this reorganization plan), (2) the office of Federal Security Administrator, (3) the office of Assistant Federal Security Administrator, (4) the two offices of assistant heads of the Federal Security Agency provided for in section 5 of Reorganization Plan No. 2 of 1946 (60 Stat. 1095), (5) the heretofore existing office of Surgeon General of the Public Health Service, and (6) the heretofore existing office of Commissioner of Education.

SEC. 8. *Interim officers.*—The President may designate and empower any person who is an officer of the Federal Security Agency immediately prior to the taking effect of the provisions of this reorganization plan to perform for a period not exceeding 60 days the functions of any office provided for by sections 2, 3, 4, or 5 of this reorganization plan pending the appointment of the first person appointed to such office. While so performing said functions any person designated hereunder shall have the title of the office concerned, with the prefix "Acting," and, if the President so directs, receive the compensation of such office. No person designated under this section shall by reason of such designation forfeit his rights with respect to his office held immediately prior to the taking effect of the provisions of this reorganization plan.

ADDENDUM

The subject matter embodied in this legislation has proved to be of abiding interest to the public during the present generation. Moreover the objective sought to be carried out by this reorganization has been consistently urged by every President of the United States since 1920, your committee has been in receipt of a great many statements pro and con from a large segment of the American public, namely, from civic, social, health, educational, and veterans' groups, as well as many other responsible organizations and individuals. It has been the determination of your committee that insofar as practicable and consistent with the committee policy and economy these expressions, statements, and memoranda will be incorporated in the record of the hearings.

Many witnesses were heard during the course of the extensive hearings on this reorganization plan who appraised and evaluated the intent and results of this phase of governmental reorganization. The beneficial effect of this interchange of ideas and opinions, abetted by the knowledge and conclusion adduced, proved of immeasurable worth in the consideration by your committee of this reorganization. Plan No. 27 contains an outline for a structure much needed and long delayed for this agency. With the growth of governmental activity in the fields of health, education, and security there has come about a necessity for an equal departmental footing for this agency.

Through these hearings your committee has formulated the necessary and sound information which has compelled the conclusion that Reorganization Plan No. 27 should be supported, and House Resolution 647 should be rejected.

PURPOSE OF REORGANIZATION PLAN NO. 27

In general Reorganization Plan No. 27 creates a new executive Department to be known as the Department of Health, Education, and Security. To this new Department is transferred all the functions and agencies of the Federal Security Agency. In this fashion, recognition at Cabinet level would be given the fields of health,

education, and social security; thus these programs would be placed on a parity with other vital elements of our national economy, such as, labor, commerce, and agriculture.

Under this reorganization plan the professional direction of specialized program activities is preserved together with provision being made for adequate staff assistance. The subject-matter embodied in this legislation is not new and repeatedly has engaged the attention of the Congress since the early 1920's. The Commission on Organization of the Executive Branch of the Government recommended the creation of a new department which would encompass most activities in these particular fields. This plan would carry out that laudable recommendation. In addition, nothing is contained in plan No. 27 which would militate against later transfers of functions into, or out of, the newly constituted Department of Health, Education, and Security in order to effect remaining recommendations of the Commission on Organization. This plan would not ascribe to the newly created executive department any more powers, authorities, or responsibilities than are now possessed by the Federal Security Agency. Cabinet-level status, carrying with it membership in the President's official family, augurs well for improved coordination of top-level governmental planning, direction, and control. By this method, the President will be enabled, in Cabinet meetings, to receive reports first hand on all major elements comprising our national economy including health, education, and security. In addition, the new Secretary would have the advantage of contact with other major department heads for the receiving and dispensing of counsel and information for cooperative planning and policy. This organizational pattern will redound in improved efficience in service, unified direction, and reduction of costs of Government by the elimination of conflicts in programing.

Basis for Reorganization Plan No. 27 (Creation of Department of Health, Education, and Security)—Recommendations of the Commission on Organization of the Executive Branch of the Government

CREATION OF A NEW EXECUTIVE DEPARTMENT

1. Report on Social Security, Education, and Indian Affairs (Vol. 4)

Stressing the increasing significance of health, education, and security as functions of the Federal Government and recognizing the vital importance of these functions in the formation of domestic policies of the Government, the following recommendation was made by the Committee on Organization:

Recommendation No. 1 (p. 6)

That a new department * * * be created and headed by a Cabinet officer.

The Commission recommended that (*a*) the Social Security Administration, the Office of Education, and the Bureau of Indian Affairs (now in the Department of Interior) be incorporated in a new Department of Social Security and Education, and (*b*) the Public Health Service be consolidated along with all other major Government medi-

cal activities in a proposed United Medical Administration, an independent agency which the Commission recommended to be created (p. 11)—

Minority recommendation (p. 39)—Statement of dissent (Commissioners Acheson, Aiken, and Rowe accord)

We recommend that the present grouping of the health functions of the Federal Security Agency with related educational and social security functions should be continued and strengthened by placing all such functions in a new department.

The dissenters in favoring the creation of a new department disagreed with their colleagues—

in their insistence that the health functions be "splintered" away from the new Department and placed in a hospital agency to be called the United Medical Administration. We would, instead, place the governmental hospital activities in the Department of Welfare * * *. In any event we would retain the Public Health Service in the new Department irrespective of the ultimate disposal of the hospital functions (p. 38).

INTERNAL ORGANIZATION

Pages 8–9:

We have urged in our first report (General Management) that good departmental administration requires that the Secretary have authority to organize and control his Department, and that grants by the Congress of independent authority to subordinates or bureaus be eliminated. The staff organization should comprise—

1. The Secretary (sec. 2 of plan No. 27 accord).
2. An Under Secretary (sec. 3 of plan No. 27 accord).
3. Assistant Secretaries, one of whom should be Administrative Assistant Secretary in charge of staff services (sec. 3 of plan No. 27 accord).

Recommendation No. 2 (p. 9)

We recommend that these officials be appointed by the President and confirmed by the Senate (sec. 3 of plan No. 27 accord), but that all officials in the Department below the rank of Assistant Secretary be appointed by the Secretary. The Administrative Assistant Secretary should preferably be appointed from the career service. (Sec. 4 of plan No. 27 accord.)

Minority recommendation (p. 42)—Statement of Dissent (Commissioners Acheson, Aiken, and Rowe accord)

We recommend that the Assistant Secretaries should be "generalists" not "specialists." No restrictions by way of professional qualifications should be placed upon the President in appointing these officers (sec. 3 of plan No. 27 accord).

2. Report on Welfare

Summary of Task Force Report on Welfare (appendix P).—In regard to the question of departmentalization, this report presents a discussion of the advantages and disadvantages of—

1. A single multifunctional department (pp. 5–8) (Reorganization Plan No. 27 accord).
2. Several unifunctional agencies with coordinated liaison (pp. 8–10) (favored by the task force).

3. Report on General Management

Recommendation No. 14 (p. 34)

Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior. (*See* secs. 5 and 6 of plan No. 27.)

Recommendation No. 15 (p. 35)

There must be more decentralization into the operating agencies of such services as accounting, budgeting, recruiting and managing of personnel, under common standards and supervision established for the entire executive branch. (Sec. 6 of plan No. 27 accord.)

Recommendation No. 18 (p. 37)

Each department head should receive from the Congress administrative authority to organize his department and to place him in control of its administration. (Sec. 6 of Plan No. 27 does not fully grant the Secretary this authority.)

4. Task Force Report on Departmental Management

Recommendation No. 5 (p. 5)

Department heads should have authority commensurate with the responsibility which they must exercise in the administrative structure of the executive branch. (Secretary receives a qualified grant of authority under plan No. 27, sec. 6.)

Recommendation No. 6 (p. 6)

Department heads should have general discretion to determine the operating organization to perform the responsibilities vested in their respective departments.

Recommendation No. 7

Departmental management, especially in the holding company type of department, is often undermined by bureau autonomy. (This element remains unchanged to some extent in Plan No. 27, in order to conform to objections made to Plan No. 1 of 1950 in this regard.)

Role and Mission of the Federal Security Agency

The Federal Security Agency is composed of three principal constituent units, the Public Health Service, the Office of Education, and the Social Security Administration. In addition, it contains the Food and Drug Administration, the Office of Vocational Rehabilitation, St. Elizabeths Hospital, and Freedmen's Hospital, and discharges certain functions with respect to Howard University, Columbia Institution for the Deaf, and the American Printing House for the Blind.

Each of the principal constituent units contains several bureaus or divisions, and operates a number of interrelated programs.

The Public Health Service administers several programs of grants to the States for public health work, for hospital construction, and for water pollution control work; conducts medical research and makes research grants; operates hospitals and renders medical services to merchant seamen and other statutory beneficiaries; and performs other health functions authorized by law.

The Office of Education makes grants to the States for vocational education, and grants under the Second Morrell Act and its extensions, and serves as a research and informational center for the educational interests of the Nation.

The Social Security Administration operates the record-keeping and benefit-paying aspects of old-age and survivors insurance; administers Federal grants to the States for public assistance to the needy aged, needy blind, and needy dependent children; administers the research and grant-in-aid functions of the Children's Bureau; and supervises the system of Federal Credit Unions.

The Federal Security Agency in the accomplishment of its programs employs and supervises personnel which, in the aggregate, considerably outnumbers the working force employed by several other major

departments possessing Cabinet status and recognition. The response and interest in these fields on the part of the American public has steadily grown. The need for this new Department has, therefore, increased each day. It should be pointed out, this legislation brings no new powers, responsibilities, nor functions to the Federal Security Agency. It will, however, afford an opportunity for increased top-level coordination, in planning, policy, and programing of the Federal Government.

Desirability of the Creation of a New Executive Department of Health, Education, and Security

In the initial report of the Commission on Organization of the Executive Branch of the Government (p. 1) it was pointed out:

> The President and under him his chief lieutenants and department heads must be held responsible and accountable to the people and the Congress for the conduct of the executive branch.

The exercise of Presidential authority must carry with it a clear line of command or direction from top to bottom of the executive branch. For best top-level management, it is imperative that all essential segments of the national economy and welfare of the American people be represented in the advisory body, known as the Cabinet of the President.

The twentieth century has ushered in with it progress, recognition, and tremendous strides in health, education, and social-security phases for bettering the circumstances of our citizens. With the passage of time, Federal activity in these fields has developed. A severe economic depression and two great World Wars have demonstrated the validity of this Federal interest. The Federal Security Agency today represents these important elements in our society—health, education, and social security. The necessity of departmental organization for the great social programs presently administered by the Federal Security Agency has long been recognized. They include the stimulation of education and the provision of financial assistance for its development; the study of child life and the promotion of improvements in child care; research in problems of health and the development of public health activities; protection against impure foods and drugs; the promotion of vocational rehabilitation service; the operation of a national system of old-age and survivors insurance; and the financing and promotion of public assistance activities.

All these activities merit a voice in the Cabinet coupled with the highest level of executive leadership. Collectively, they constitute one of the largest and most important groups of Federal activities, involving a personnel of nearly 35,000 and annual expenditures of more than one and a half billion dollars. Status of the Federal Security Agency as an independent agency, when it is in fact many times larger than some Cabinet-level posts, is untenable. Under Reorganization Plan No. 27, this important agency would be linked directly to attention and control of the President. The importance of its mission merits its elevation. The uniqueness of its major purposes and goals is self-eloquent. The size of its related programs is again a justification as a major department.

Although public opinion and the studies of the Commission on Organization of the Executive Branch of the Government are agreed on the need for this new executive department, opposition stems not

from the objection to constituting the Federal Security Agency as this new executive department, but is slanted to advocating one or the other of its functions for dominance within the new agency. Admittedly, there is much pressing for a separate department for one or another of the agency's functions. In this vein, the medical profession has urged a separate Department of Health, to be headed by a doctor, while the dental profession has favored a Department of Health, to be administered by a dentist. Educational organizations have prompted the need for a separate Department of Education, in which an educator would be the director. These well-intentioned considerations are not, however, the subject matter of this reorganization. It is, indeed, a worthy objective for every one of us to "see the solution of our problems through the eyes of our own profession." However, Reorganization Plan No. 27 gives recognition to the health, education, and social needs of the American people as amply demonstrated in the name of the new department. On the other hand, the statutory independence and professional integrity of the commissioners directing the pursuits in each of these Federal fields is preserved and guaranteed.

In 1949, the Congress considered a reorganization plan to create a Department of Welfare. The present reorganization plan is designed to meet the objections interposed to the previous plan of 1949. The coequal status of the three main constituencies of the new Department is assured in the title, "Department of Health, Education, and Security." Further, each commissioner of the constituent elements must be appointed by the President, must possess appropriate professional qualifications, thereby assuring the professional integrity and professional independency of judgment needed for carrying out of respective programs. In addition, these commissioners are able directly to gain the ear of the Secretary, without the necessity of proving their case through a lay strata of intervening administrative officials. In this manner, the President is assured of all facts being presented to him in the contents of these respective programs relayed by the new Secretary.

This reorganization plan does not at this time fully attempt to carry out all of the sweeping recommendations urged by the Commission on Organization in this field. There is, however, nothing to preclude later transfers to or transfers from the new Department aimed at the eventual accomplishment of those objectives.

The reorganization plan of 1949 on this subject matter failed of enactment due largely to the fact that it centralized authority in the head of the new Department. Recognition has been given in the present plan to the retention of the statutory functions of the Federal Security Agency in the professionally qualified commissioners with guaranties for the professional independence of these commissioners of the various units. In this way, Reorganization Plan No. 27 pointedly meets the objections to this earlier legislation, while the management improvements and desired increase in efficiency will result from central administrative services, authorized by the plan, together with the existing authority transferred from the present Federal Security Administrator.

Testimony, statements, and comments from some quarters have proceeded from an unwarranted assumption. They have viewed this new executive post as presenting an admirable forum for underwriting

new programs of Federal activity. This stand is totally without merit. It is only contemplated by your committee that the new Secretary, as should be the case of every Secretary of a major department, will act within his statutory authority, calling attention to essential needs of the American people in the implementation of the Presidential program.

In the ultimate, the Congress, representing all the people, will be the deciding body on the trends and the scope of governmental programs. These latter will be subject to the scrutiny and evaluation of the various congressional committees. Opposition to any legislation should not be ascribed to an unknown or future fear for which there is no present tenable basis.

In the matter of savings, the Federal Security Administrator, the Honorable Oscar Ewing, in his testimony, endorsing Reorganization Plan No. 27, stated:

> As far as we can now determine, however, they will be as great or nearly as great as in a fully integrated department. And aside from the cash savings to be achieved, there will unquestionably be gains in the effectiveness of service which, though they cannot be reduced to dollars and cents, will be equally important. Not only will the taxpayer be saved a substantial amount of money, but he will get better value for what is spent.

Further, in the matter of increased efficiency resulting from Reorganization Plan No. 27, the Federal Security Administrator indicated:

> In matters ranging all the way from procurement of supplies to management of personnel, the considerations that argue one way or the other are constantly shifting with variances in the nature and volume of work, in organizational patterns, in geographical dispersion, and with experience. So to me, the importance of the present reorganization plan in this regard is, not that it permits centralization of administrative services, but that it permits shifts to be made when and as experience or changing conditions may dictate.

Fifteen of the nineteen organizations which appeared to testify at the hearings on plan No. 27 were proponents of the plan. Witnesses in favor of the plan included outstanding spokesmen from the fields of public health and preventive medicine, education, and social work, and citizen consumer groups, as follows:

Public health and preventive medicine was represented by the American Public Health Association, a professional society of more than 12,000 public-health workers, including physicians, dentists, nurses, engineers, and other professions in the public-health field, and the Association of Schools of Public Health.

The viewpoint of educational groups was advanced by the American Council on Education and Dr. John W. Taylor, president, University of Louisville, Louisville, Ky.

Social-welfare organizations which favored plan No. 27 included Family Service Association of America, National Child Labor Committee, American Parent's Committee, and American Association of Social Workers.

Citizen consumer groups endorsing this reorganization were National Farmers Union, American Federation of Labor, Congress of Industrial Organizations, Cooperative League of America, American Veterans' Committee and Army and Navy Union.

In addition to the foregoing, the committee received statements in support of plan No. 27 from the following groups: Central States Conference of State Departments of Education—14 States in the Middle West; Child Welfare League of America; Spokesmen for

Children; National Board of the YWCA; American Association of Group Workers; Dr. Alexander Brin, chairman of State of Massachusetts Board of Education; Americans for Democratic Action; American Association of Group Workers; Mr. John Corson, Washington Post; and Mrs. Agnes Meyer, writer on education and social-welfare problems.

The four organizations which appeared in opposition to plan No. 27 were: American Medical Association—testified in favor of a separate Department of Health; American Dental Association—testified in favor of a separate Department of Health; American Association of University Women—testified in support of an independent or separate educational agency.

Citizens Committee for the Hoover Report—testified that plan No. 27 "is at variance (*a*) with the Hoover Commission's program" for a new United Medical Administration and (*b*) with the Commission's recommendation that all statutory authority within a department should be vested in the department head. It is crystal clear that none of these objections are well taken, and expressly (*a*) must be the subject of independent legislation and not through reorganization plan, and further nothing in this plan militates against later consideration of a proposed United Medical Administration; (*b*) this was proposed in a somewhat similar reorganization plan, namely, Reorganization Plan No. 1 of 1949. This plan was disapproved in the Senate. The present plan was designed to cure and meet objections advanced at that time.

Conclusions—A Summary

Reorganization Plan No. 27 proposes creation of a new department in the executive branch of the Government. This new body would be known as the Department of Health, Education, and Security. During the last half century these representative fields have gained recognition on the American scene as vital elements of our national economy. The Commission on Organization of the Executive Branch of the Government has recommended the creation of this new Department. The President has submitted this reorganization plan in order to constitute the now existing Federal Security Agency as this new Department. Nothing would be added by this legislation to the scope of functions presently vested in the Federal Security Agency. However Cabinet level status would aid in coordinated programing and policy determinations in conjunction with the remaining major departments of the executive branch. The interchange of information and facile and repeated contact with heads of other major departments would be most beneficial in accomplishing the meritorious objectives of health, education, and security. Adequate safeguards have been employed in this legislation so that independency of action and thought, and professional integrity for the Commissioners of Health, Education, and Security have been assured. Professional judgment has not been subordinated to lay administration.

Finally, economy and efficiency in service, a concomitant of structural reorganization, has excellent auspices under this plan stemming from implementation and improvement of policy direction and coordination. The need is immediate. Reorganization Plan No. 27 should be adopted by rejecting House Resolution 647.

MINORITY VIEWS

Reorganization Plan No. 27 of 1950 would elevate the present Federal Security Agency to the rank of a Cabinet department. Thereby, the prestige and power of the Agency which has been in the forefront of the movement for socialistic welfare schemes would be enhanced. There would be little change in the internal organization of the present establishment. No substantial economies would be achieved. The plan does not conform with recommendations of the Commission on Organization of the Executive Branch of the Government. It is not merely in conflict with those recommendations but would make it increasingly difficult to achieve important parts of the Hoover Commission program.

The plan should be rejected through adoption by the House of Representatives of House Resolution 647.

PROVISIONS OF PLAN

Reorganization Plan No. 27, submitted by President Truman on May 31, 1950, would establish a Department of Health, Education, and Security. All agencies of the Federal Security Agency, together with their respective functions, records, property, personnel, and unexpended balances of appropriations, would be transferred to the new Department.

The Department would be headed by a Secretary of Health, Education, and Security, to be appointed by the President with the consent of the Senate and to whom the functions of the present Federal Security Administrator would be transferred. Provision also is made for an Under Secretary and an Assistant Secretary appointed by the President with the consent of the Senate and an Administrative Assistant Secretary appointed, with the approval of the President, by the Secretary under the classified civil service.

Three major bureaus in the new Department would correspond to the three major units of the present Federal Security Agency. The Public Health Service would be headed by the Surgeon General. The Office of Education by the Commissioner of Education, and the Social Security Administration by the Commissioner of Social Security. The three officials would be appointed by the President with the consent of the Senate.

The present autonomous powers of the Public Health Service and the Office of Education would be preserved. Powers of the Social Security Administration, now vested in the Federal Security Agency, would continue to be lodged in the head of the Department.

The plan differs from Reorganization Plan No. 1 of 1949, which was rejected by the Senate, chiefly in a change of the name of the new Department from Department of Welfare to Department of Health, Education, and Security and in retention of autonomous powers of the Public Health Service and the Office of Education.

DIFFERENCES FROM HOOVER COMMISSION PROGRAM

The only point at which Reorganization Plan No. 27 of 1950 touches the program of the Hoover Commission is in its creation of a new department. The proposed new department, however, would not be that which was recommended by the Hoover Commission.

A major point of difference from the Hoover Commission program is the inclusion of health functions in a department with education and social welfare.

Another important point of difference is in the lodging in the new Department of the Public Health Service which under the Hoover Commission program would be made a part of an independent United Medical Administration.

Still another vital point of difference is the granting of autonomous powers to bureaus within a department.

The plan for a new department would fall short of the recommendations of the Hoover Commission for a new department in several other respects.

Mr. Robert L. L. McCormick, research director of the Citizens Committee for the Hoover Report, whose membership is representative of a strong public sentiment for adoption of the Hoover Commission recommendations, testified that Reorganization Plan No. 24 was so much at variance with the Hoover Commission program that his committee could not give its support.

HOOVER COMMISSION RECOMMENDATION FOR NEW DEPARTMENT

The Hoover Commission in a report on social security, education, and Indian affairs recommended a new department to administer functions dealt with in the report. The report dealt with welfare, social security, and education activities but not with health functions. The latter were covered in a separate report on medical activities.

The effect of the recommendation was to propose the elevation of the education and security activities of the present Federal Security Agency to a departmental status. The health functions, however, would be divorced from the present grouping and made a part of the proposed United Medical Administration.

In discussing its recommendation for a new department dealing with education and security, the Hoover Commission said:

> American concern over the problems of education, health, relief of the needy, aid to the handicapped, and assistance in unemployment and old age is as old as the Republic. Responsibilities in these fields were initially considered to be those of State and local governments.
>
> With the growth of the Nation, these problems have become wider than local and State boundaries. There is a common interest of all citizens in the education of every citizen. There is a common interest in the advancement of science and in the common dangers from disease. There are obligations to veterans. The problems of unemployment extend beyond State borders. There is generally a recognition of the practical problems which lie in our obligation as "our brother's keeper."
>
> All these circumstances have contributed to bring these problems more and more to the Federal level. In dealing with these matters, except in the case of veterans, the Federal Government has usually sought to preserve the responsibilities of local government and their agencies of administration in effecting the national purpose.
>
> It is not the province of this Commission to pass upon the policies that have evolved in these matters. We are concerned with the efficient and economical

organization of the Federal agencies as we find them. The organizational problems of education, health, medical care, assistance to the handicapped and aged, and aid to the unemployed permeate every department of the Federal Government.

There is no perfect organizational arrangement for these functions. Many of them must be performed by specialized agencies like the Veterans' Administration, the Armed Forces, and the Labor Department. As the problems grow, specialization in organization will inevitably grow.

In our report on Medical Services, we have recommended a separate United Medical Administration, reporting directly to the President. That agency would embrace the major hospitalization, medical research, and public health activities of the Government and, by its creation, bring about better medical care, development of medical staff, research, and protection of public health, together with large economies in administration.

In our report on the Labor Department, we recommended the return of several agencies now in the Federal Security Agency to that Department.

There remain, however, certain most important bureaus or agencies relating to education and security which must be organized into a workable department. They are now, with one exception (the Bureau of Indian Affairs), in the Federal Security Agency.

The size of these agencies, after making the changes we have outlined, is somewhat indicated by the fact that they embrace about 20,000 employees. The administrative expenditures would be roughly $50,000,000. The grants-in-aid to be distributed would approximate $800,000,000. For the calendar year 1948, the collections of old-age and survivors insurance approximated $1,688,000,000, and disbursements $550,000,000. The accumulated funds on August 31, 1948, were $10,388,000,000.

While we discuss the educational problems at greater length later, it may be said here that it has long been suggested that the educational activities of the Federal Government should be given independent or Cabinet status. However, the Federal Government is not engaged in direct educational activities (except in a small way in the case of Howard University). Its function is that of stimulating educational advancement by research, issuing publications, and making grants-in-aid to the States. The administrative staff required is less than 500 persons.

We believe that the functions, including education, which we propose to assign to this Department have such an important relationship to the formation of the domestic policies of the Government that the person in charge of the functions should be a member of the President's Cabinet.

PROPOSAL FOR UNITED MEDICAL ADMINISTRATION

The Hoover Commission in its report on Medical Activities recommended establishment of a United Medical Administration into which would be consolidated most of the large-scale activities of the Federal Government in the fields of medical care, medical research, and public health. The purpose was stated to be to eliminate overlap, waste and inefficiency.

The objectives were stated to be to provide better medical care for the beneficiaries of the Federal Government's medical programs, to create a better foundation for training and medical service in the Federal agencies, to reduce the drain of doctors away from private practice, to provide better organization for medical research, and to promote a better state of medical preparedness for war.

The Public Health Service, including its hospitals and functions, facilities and personnel, would be transferred to the new agency from the present Federal Security Agency. There would also be included in the United Medical Administration the general hospitals of the Armed Forces in the continental United States, the hospital functions of the Veterans' Administration, and the nonmilitary hospitals in the Canal Zone.

The Hoover Commission in discussing advantages of its plan said:

Only the creation of a new United Medical Administration can remedy the weakness of the present organization and give the leadership, direction, and plan-

ning urgently needed. To it would be transferred the Government's major services in the field of medical care, public health, and medical research.

The Nation's vast medical services, which we have noted lack any central plan of operation, require unified responsibility. The Government must have a central plan if waste and inefficiency are to be avoided. The advantages of unification of Federal medical services include the following:

(*a*) The general standard of Federal medical care would be improved.

(*b*) There would be a central supervision of the major Federal medical care, public health, and medical research activities. Unified responsibility is the key to good management. The President, the Congress, and the public could look to one man for results.

(*c*) Construction costs could be standardized and reduced.

(*d*) Federal hospitals could be utilized to the fullest extent by eliminating present distinctions as to the particular types of beneficiaries for which each can care. After all, a patient is a patient whether he is a veteran, a merchant seaman, or in the Army, Navy, or Air Force.

(*e*) The medical manpower at the call of the Federal Government could be used to the fullest extent, and present deficits in skilled personnel could be greatly reduced.

(*f*) The need for any draft of medical manpower in time of peace would be greatly lessened.

(*g*) The cost of health and medical services would be clearly identified and known to Congress.

(*h*) The facilities of private hospitals and the skills of physicians in private life and in the universities could be utilized far more effectively than they are now.

SHORTCOMINGS OF PLAN NO. 27

The excerpts from reports of the Hoover Commission showing its reasoning in making a recommendation for creation of a new department dealing with education and security and in proposing a merger of medical activities in an independent agency are pertinent as indicating the shortcomings of Reorganization Plan No. 27.

The proposed plan does nothing at all toward achievement of the objectives of the Hoover Commission in these matters.

Proponents of the plan claim that it does not prejudice future action by Congress toward approval of Hoover Commission recommendations, specifically the creation of a proposed United Medical Administration.

It is significant, however, that Mr. Oscar R. Ewing, Federal Security Administrator, in testifying for the plan, took occasion to express his opposition to the United Medical Administration. Obviously, the increased prestige attaching to the proposed new department would give his views, if he were named to head the new department, greater weight.

At least one witness, in response to a question from a member of the committee, admitted that his support of the President's plan was very largely influenced by the belief that it would mean rejection of the United Medical Administration proposal.

Whether or not this committee and the Congress shall approve legislation creating a United Medical Administration, no step should be taken which would impede such a program unless the evidence of need of the pending reorganization plan is indisputable.

Testimony during the hearings on Reorganization Plan No. 27 has made it clear that support for it comes from groups desirous of building up the power and prestige of the present Federal Security Agency, especially with respect to its social-welfare functions.

It was made clear that some groups concerned with the Public Health Service and the Office of Education were skeptical of any advantages of the plan.

Opposition was expressed by representatives of both the American Medical Association and the American Dental Association. Both of these groups have long advocated creation of a separate Department of Health. Their spokesmen were fearful of subordination of health activities in the proposed Department of Health, Education, and Security. Similarly, a witness for the American Association of University Women objected to the plan, preferring a grouping of educational activities under an independent board. These professional groups all were distrustful of lay administrators who would have Cabinet rank above the professional experts in immediate charge of health or educational functions.

AUTONOMOUS BUREAUS

The reorganization plan by retaining the autonomous character of the Public Health Service and the Office of Education seeks to avoid the opposition of some of those who objected to Plan No. 1 of 1949 for a Department of Welfare.

It is true that the status of the powers of these two agencies in a new department would be unchanged from what they are in the Federal Security Agency. The freezing of the powers in a department of higher rank, however, would make it doubly difficult to deal with the situation hereafter.

The Hoover Commission laid stress upon the undesirability of autonomous powers by bureaus within a department. Recommendation No. 14 in its report on General Management of the Executive Branch was that the heads of departments, under the President, should have full responsibility for the conduct of their departments, that there should be a clear line of authority reaching down through every step of the organization and that no subordinate should have authority independent from that of his superior.

The Commission's findings on this subject were as follows:

> The line of command and supervision from the President down through his department heads to every employee, and the line of responsibility from each employee of the executive branch up to the President, has been weakened, or actually broken, in many places and in many ways.
>
> This line of responsibility still exists in constitutional theory, but it has been worn away by administrative practices, by political pressures, and by detailed statutory provisions.

SOCIALISTIC TENDENCIES

The present Federal Security Agency has actively promoted socialized medicine and other proposals infringing upon American principles of government.

Undoubtedly, the strength of the influence of this Agency with the Congress and with the public would be increased by its elevation to Cabinet rank.

The trend toward socialism might be furthered by approval of the reorganization plan.

The Chamber of Commerce of the United States, discussing the plan for compulsory health insurance, of which Federal Security Administrator Ewing has been the leading advocate, said:

> A socialized medicine system would be a big step toward socialism in general. A huge new bureaucracy would be created, and there would be widespread destruction of our voluntary institutions. Not only doctors, dentists, and nurses would

be paid—and controlled—by the Government, but countless typists, bookkeepers, and investigators would be required.

The new army of Government workers might number a half million persons or more. It could wield dangerous political power.

The assumption has prevailed that Mr. Ewing would be the President's selection for Secretary of Health, Education, and Security, in the event of approval of the present reorganization plan. Undoubtedly, he would redouble his efforts for socialized medicine.

CONCLUSION

Reorganization Plan No. 27 is the answer to the bureaucrat's prayer. It provides increased power with which to extend the activities, influence, and payrolls of existing agencies, which every bureaucrat seeks. That is virtually all it does.

The plan in scarcely any particular follows any recommendation of the Hoover Commission. Its stated objectives are not those of the Hoover Commission, more efficient organization and greater economy, but rather increased prestige and influence for particular activities. The plan departs from and is in actual conflict with the Hoover Commission program.

In the absence of conclusive evidence to show the need for elevation of the present Federal Security Agency to Cabinet rank, the House of Representatives should reject the plan by approval of H. Res. 647.

Respectfully submitted.

CLARE E. HOFFMAN.
R. WALTER RIEHLMAN.
W. L. PFEIFFER.
HAROLD O. LOVRE.
ROBERT F. RICH.
RALPH HARVEY.
CHARLES A. HALLECK,
By C. E. H.

○

Union Calendar No. 834

81ST CONGRESS
2D SESSION

H. RES. 647

[Report No. 2320]

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 1950

Mr. HOFFMAN of Michigan submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

JUNE 23, 1950

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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RESOLUTION

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 27 transmitted to Congress by the President on May 31, 1950.

Union Calendar No. 834

81ST CONGRESS
2D SESSION

H. RES. 647

[Report No. 2320]

RESOLUTION

Disapproving Reorganization Plan Numbered 27 of 1950.

By Mr. HOFFMAN of Michigan

JUNE 13, 1950

Referred to the Committee on Expenditures in the Executive Departments

JUNE 23, 1950

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Calendar No. 1946

81st Congress, 2d Session | SENATE | Report No. 1943

REORGANIZATION PLAN NO. 27 OF 1950 PROVIDING FOR A DEPARTMENT OF HEALTH, EDUCATION, AND SECURITY

JULY 10 (legislative day, JULY 1), 1950.—Ordered to be printed

Mr. McCLELLAN, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

[To accompany S. Res. 302]

The Committee on Expenditures in the Executive Departments, to whom was referred Senate Resolution 302, expressing disapproval of Reorganization Plan No. 27 of 1950, report favorably thereon and recommend that the resolution be approved by the Senate. The effect of the adoption of the resolution will be to prevent Reorganization Plan No. 27 of 1950 from becoming effective on July 31, 1950.

The committee in executive session on July 10, 1950, took favorable action on Senate Resolution 302 by a vote of 6 to 3, four members not being present. Members of the committee voting in affirmative were: Senators McClellan (chairman), Eastland, Hoey, Ives, Mundt, and Schoeppel. Those voting against the resolution were: Senators Humphrey, Benton, and Smith of Maine.

The President transmitted to the Congress assembled on May 31, 1950, pursuant to the provisions of the Reorganization Act of 1949, Reorganization Plan No. 27 [1] providing for a Department of Health, Education, and Security to which would be transferred all functions of the Federal Security Agency. The Federal Security Agency would be abolished under the plan.

SUMMARY OF COMMITTEE'S FINDINGS

The committee conducted public hearings upon Senate Resolution 302 on July 6 and 7, 1950. In reporting the resolution of disapproval favorably, the majority of the committee agreed substantially with the following objections presented by Senators Taft, Hendrickson, Smith

[1] Reorganization Plan No. 27, and the President's message which accompanied it, are included in this report as Appendix A.

of New Jersey, and Butler and other witnesses who opposed Reorganization Plan No. 27:

1. Plan No. 27 is not a reorganization but a reorientation of the Federal Security Agency as an executive department. It makes no substantive improvements in operations of the Federal Security Agency.

2. The plan is directly contrary to the recommendations of the Commission on Organization of the Executive Branch of the Government as it completely omits the important recommendation for establishment of a proposed United Medical Administration, in which would be incorporated the United States Public Health Service, now a major component of FSA.

3. A grave danger exists that plan No. 27 would subordinate professional judgment to nonprofessional domination in operation of the Public Health Service and the Office of Education. Nothing in plan 27 assures that a physician would head the Public Health Service or an educator the Office of Education.

4. The professional qualifications which section 5 of plan No. 27 requires for the above-named offices are defined so broadly that fulfillment would be a matter of interpretation and, probably, dispute. For example, a career "administrator" could meet the "professional qualifications" as required in the present proposal.

5. The elevation of the Federal Security Agency to departmental status would greatly enhance the influence of the Federal Security Administrator, advance the national compulsory health-insurance program which he vigorously advocates, and make available greatly increased propaganda powers which non-Cabinet officers do not possess.

6. The top-heavy "little cabinet" within the proposed Department (an Under Secretary, Assistant Secretary, and Administrative Assistant Secretary), for none of whom professional qualifications are required, would obviously exert heavy administrative pressures upon the Department's professional agencies.

7. Vesting in the Secretary all authority over supply, budgeting, accounting, library, and legal services, and other activities common to the Department's diversified agencies, would deprive the Office of Education and the Surgeon General of any voice in the direction of those important matters. Veto by the Secretary of agency budget requests could very well curtail, seriously impede, and interfere with the operations of either agency.

8. The adoption of plan No. 27 would be a forward step toward greater Federal control over education since the proposal weakens the independence of the Office of Education rather than strengthens it. This is also true with reference to the Public Health Service.

9. The Congress at the present is considering consolidation of all Federal medical activities in a single administration or agency. Any action as to reorientation of the Public Health Service at this time would be premature and obviously in conflict with the former.

10. The American Medical Association, representing 146,000 physicians; the American Dental Association, representing 70,000 dentists; the National Council of Chief State School Officers, representing State superintendents and commissioners of education in each of the 48 States; and the American Association of School Administrators, representing 7,532 local school superintendents, expressed emphatic

convictions favoring independent agencies for the Public Health Service and the Office of Education until such time as their operations warrant departmental status.

11. No substantial economies would be effectuated by plan No. 27. The plan's adoption might well result in still further expansion of welfare activities with increased expenditures rather than economies.

ANALYSIS OF REORGANIZATION PLAN NO. 27 OF 1950

All components of the Federal Security Agency would be transferred to the new Department of Health, Education, and Security. Two of the three major components of FSA, the Public Health Service and the Office of Education, would retain the limited statutory authority they now possess, but under section 6 would lose control over supply, budget, legal, and other "common" services, authority for which would be vested in the Secretary. Their relationship to the Secretary of Health, Education, and Security would be the same as that to the Federal Security Administrator at the present time. Functions of the third major component, the Social Security Administration, now vested in the Federal Security Administrator, would be lodged in the new Secretary. No new functions or programs, other than those presently incorporated in the Federal Security Agency, are provided for by the plan.

In addition to the Secretary, the plan creates an Under Secretary, an Assistant Secretary, and an Administrative Assistant Secretary. It retains the Office of Surgeon General, Commissioner of Education, and Commissioner of Social Security as presently established in the FSA. All of these officials would be appointed by the President subject to approval by the Senate, except the Administrative Assistant Secretary who would be appointed by the Secretary from the classified civil service, subject to the President's approval. The plan provides in broad language that the Surgeon General, Commissioner of Education, and Commissioner of Social Security shall have "professional qualifications, experience, and training appropriate to their duties."

All present functions of the Federal Security Administrator would be transferred to the Secretary. The plan provides that the Surgeon General shall be the head of the Public Health Service, the Commissioner of Education shall be head of the Office of Education, and the Commissioner of Social Security shall be head of the Social Security Administration. However, each officer would perform "such other duties" concerning his respective field as may be required by law or "as the Secretary may prescribe" pursuant to law. All functions of the heretofore existing Surgeon General are transferred to the new Surgeon General and all functions of the heretofore existing Commissioner of Education to the new Commissioner of Education, but no transfer of functions of the heretofore existing Commissioner of Social Security is made, since they would be lodged directly in the Secretary himself, on the same basis as they are in the Federal Security Agency Administrator at present. The Secretary is given authority to redelegate functions vested directly in him to any Department agency, officer, or employee.

The Secretary is given carte blanche authority to establish central administrative services for supply, budgeting, accounting, library, and legal services, and other activities common to the Department's sev-

eral components. Such authority does not permit the transfer from the Surgeon General, the Commissioner of Education, or the Commissioner of Social Security professional or substantive functions vested in them by statute, but provides sweeping controls over the above-listed important activities of the Department's "independent" agencies.

The President is authorized to designate any person who was an officer of the Federal Security Agency immediately prior to the taking effect of Reorganization Plan No. 27 to perform the functions of any office provided for by sections 2, 3, 4, or 5 of the plan for 60 days, pending the appointment of the first person to be appointed to such office.

COMPARISON WITH REORGANIZATION PLAN NO. 1 OF 1949

The major difference between Reorganization Plan No. 1 of 1949 (creating a Department of Welfare), and Reorganization Plan No. 27 of 1950 is that the first plan centered all statutory authority for the proposed department in the Secretary, while Reorganization Plan No. 27 of 1950 vests statutory authority in the Secretary for only those functions presently vested in the Federal Security Administrator, and, according to the President's message accompanying the plan, attempts to retain the independent statutory authority of the Public Health Service and of the Office of Education.

Plan No. 1 of 1949 provided for the appointment of three Assistant Secretaries of Welfare, whereas plan No. 27 of 1950 would create an Under Secretary, an Assistant Secretary, and an Administrative Assistant Secretary, the latter to be in charge of the important services listed under section 6. Plan No. 27 of 1950 also attempts to prescribe general professional qualifications for the Surgeon General, Commissioner of Education, and the Commissioner of Social Security, which requirement was not contained in plan No. 1 of 1949.

Plan No. 1 of 1949 provided that the Federal Security Administrator would serve as Secretary of Welfare for a period not to exceed 60 days after the establishment of the Department, whereas plan No. 27 of 1950 authorizes the President to appoint for a period not to exceed 60 days any officer of the Federal Security Agency to be Secretary of Health, Education, and Security, which officer will serve in an acting capacity until the initial permanent appointment is made.

DEVIATION FROM RECOMMENDATIONS OF THE HOOVER COMMISSION

Plan No. 27 deviates broadly from the Hoover Commission recommendations for the establishment of a Cabinet Department to administer welfare functions. The Hoover Commission recommended that (*a*) the Social Security Administration, the Office of Education, and the Bureau of Indian Affairs (now in Department of the Interior) be incorporated in a new Department of Social Security and Education; and (*b*) that the Public Health Service be consolidated, along with all other major Governmental medical activities, in a proposed United Medical Administration, an independent agency which the Commission recommended by created.[2] In effect, plan No. 27 conforms to

[2] Hearings were held on H. R. 5182 which would establish a United Medical Administration by the House Committee on Expenditures in Executive Departments on March 29 and June 13, 14, and 22, 1950, but no action has been taken by the committee as of this date. Hearings on S. 2008 (a companion bill) are scheduled by the Senate Committee on Labor and Public Welfare, July 10, 11, and 12, 1950.

the Hoover Commission recommendations only to the extent of establishing a new Department with a Secretary of Cabinet status.

The Hoover Commission also recommended that the Secretary be given full statutory authority for administration of the Department he would head. The Commission further recommended that the food regulatory functions of the Food and Drug Administration be transferred to the Department of Agriculture (from Federal Security Agency) and the drug regulatory functions to the United Medical Administration, which transfers are not incorporated in plan No. 27. Other major recommendations made by the Hoover Commission, such as the transfer of the Bureau of Employment Security, the Bureau of Unemployment Compensation and the Employees Compensation Appeals Board from the Federal Security Agency to the Department of Labor have been effectuated. The first by Reorganization Plan No. 2 of 1949, and the latter two by Reorganization Plan No. 19 of 1950, respectively.

OPPOSITION TO REORGANIZATION PLAN NO. 27 OF 1950

Forceful opposition to Reorganization Plan No. 27 was presented by four Senators who are cosponsors of Senate Resolution 302 which would disapprove the plan.

In the judgement of Senator Robert A. Taft, of Ohio, a sponsor of Senate Resolution 302, plan No. 27 is an effort to create a permanent Department of Health, Education, and Security in violation of the general recommendations of the Hoover Commission regarding the reassignnment of Federal health activities in the Government structure. Expressing the conviction that the Public Health Service should be operated upon an independent basis, Senator Taft pointed out that Reorganization Plan No. 27 does not establish an independent division of public health in the proposed department as provided by S. 140, Eightieth Congress, first session (Taft-Fulbright bill), which would have created an Under Secretary for Health, but maintains the existing domination by Federal welfare officials over health activities. The Senator objected vigorously to the establishment of a Cabinet Department, the top structure of which would be largely dominated by the welfare viewpoint to the detriment of the subordinated health and education functions. Plan No. 27, the Senator stated, would establish a "tremendous overhead organization" which would constantly interfere in operations of the Department's major agencies. The new Secretary despite the present statutory independence of the Public Health Service would have complete supervision over the activities of the Surgeon General, in the Senator's opinion.

Of the three other Senators who presented testimony to the committee, Senator Robert C. Hendrickson, of New Jersey, pointed out that plan No. 27 conflicts boldly with the explicit recommendations of the Hoover Commission, mortgages the possibility of establishing a separate independent health administration or agency at any future time because favorable action now would preclude any further reorganization for years to come, and effects no substantial economies, improvements in efficiency, or administrative reforms. Senator H. Alexander Smith, of New Jersey, in a statement expressed the conviction that approval by the Congress of plan No. 27 would, "be

particularly ill-timed in light of the fact that committees in both Houses are giving active consideration to a bill establishing a United Medical Administration as recommended by the Hoover Commission. Hearings on such a bill, H. R. 5182, are now in progress before the House Committee on Expenditures in the Executive Departments, and hearings on S. 2008, whose purpose is the same, are scheduled to begin on July 10 before the Committee on Labor and Public Welfare, of which I am a member. I feel that approval of plan No. 27 would seriously prejudice further consideration of the United Medical Administration proposal, which was one of the boldest proposals that the Hoover Commission made."

Senator Smith expressed disagreement with the view of the President that adoption of plan No. 27 "will not in any way interfere with further adjustments in the functions of the new Department either by statute or reorganization plan," stating it is entirely inconsistent to favor the creation of a Cabinet Department embracing health as one of its major fields while simultaneously supporting the view that health functions should be separate from the others.

Senator Hugh Butler, of Nebraska, in a statement submitted to the committee, declared that the principal effect of plan No. 27 is to give the present Federal Security Administrator a portion of the authority which he has sought in previous proposals over such bureaus as the Public Health Service and the Office of Education. The Senator stated:

> If this reorganization plan is approved, it is morally certain that before very long we shall be requested to approve an additional plan or plans which will go further in concentrating authority in the hands of the Federal Security Administrator. If this process continues, he may eventually arrive at his original objective of controlling these bureaus completely. He can accomplish his purpose just as well on a step-by-step basis as by taking it in a single leap. I believe such officials as the Surgeon General should have a certain amount of independent statutory authority when not in conflict with the general policies of the Federal Security Administrator. I see no reason why we should compromise on this question.

Senator Butler stated he saw no reason why the Federal Security Administrator should be granted additional powers unless definite economies could be shown to result, adding, "No such showing has been made in this case." Pointing out that plan No. 27 does not conform to the Hoover Commission recommendations, the Senator charged the President has "unfortunately used the reorganization authority to concentrate power in his own hands and in those of his selected lieutenants. Those portions of the Commission's recommendations which centralize greater power in the hands of the President he has enthusiastically endorsed * * * those portions of the Commission's recommendations which do not conform to the purpose have generally been ignored. To the best of my recollection none of the President's reorganization plans have specifically promised the saving of one single dime."

In addition to the four cosponsors of the resolution of disapproval, witnesses representing the American Medical Association, the Association of American Physicians and Surgeons, Inc., the American Dental Association, the National Council of Chief State School Officers, the American Association of University Women, the American Legion, and others, presented testimony in opposition to Reorganization Plan No. 27. Their objections were based on the following factors:

Plan No. 27 is not a reorganization but a "reorientation" of the present Federal Security Agency as an executive department. It makes no substantive improvements in operation of the Public Health Service, the Office of Education, or the Social Security Administration—merely makes the Federal Security Administrator a Cabinet officer.

Plan No. 27 is directly contrary to the recommendations of the Commission on Organization of the Executive Branch in that it does not provide for the establishment of a proposed United Medical Administration in which would be consolidated all major Government medical activities including the Public Health Service. (See statement of Citizens Committee for the Hoover Report, which follows).

Plan No. 27 contains no provisions to facilitate subsequent establishment of such an independent department. On the other hand, the new title "Department of Health, Education, and Security" suggests that the Public Health Service would be more firmly wedged than before into the present triple-organization structure should the present reorganization proposal be adopted by the Congress.

The functions of the Social Security Administrator would be lodged in the new Department Secretary, although the Commissioner of Social Security would administer them, whereas the functions of the Public Health Service and of the Office of Education would be lodged in the respective Commissioners heading those offices. It is logical, therefore, the opposing witnesses maintained, that greater responsibility would be given by the Secretary in the Cabinet to social-security matters than either public health or education.

Estimates indicate that educators are concerned with approximately 28,000,000 people. The Social Security Administration has contact with about 51,000,000 people including recipients of benefits as well as taxpayers. However, all age groups of the entire population are vitally concerned with matters of health. Such statistics clearly indicate the great significance of the Federal Government's medical activities from a population viewpoint and in the judgment of many witnesses justify establishment of an independent department to discharge the Nation's health program.

Plan No. 27, according to opposing witnesses, would, in the final analysis, subject the Nation's health program to the direction of a politically appointed Secretary of Health, Education, and Security who possesses no professional qualifications. No assurance exists that the Surgeon General, who would be in immediate command of the Public Health Service, would continue to be appointed from the Public Health Service Commissioned Corps since the reorganization plan does not require that he be appointed from the Corps but provides that he *may* be a member of it. (Sec. 5.)

Giving departmental recognition of the Federal Security Administration is another step forward in the direction of socialized medicine, witnesses opposing plan No. 27 charged. In their judgment, Cabinet prestige would enhance the influence of the Federal Security Administrator, advance his publicly advocated national compulsory health insurance program and undoubtedly make available greatly increased propaganda powers which non-Cabinet officers do not possess.

Plan No. 27 subordinates professional judgment to nonprofessional domination despite retention of the independent statutory authority of the Public Health Service, witnesses stated. They pointed out that

section 2 (b) states "All functions of the Federal Security Administrator are hereby transferred to the Secretary" (of Health, Education, and Security) which would mean that whenever in an existing statute relating to the Surgeon General, the words "Federal Security Administrator" appear would be substituted the words "Secretary of the Department of Health, Education, and Security".

A survey of certain statutes affecting the Office of the Surgeon General which indicates to what degree the new Secretary of Health, Education, and Security would exert statutory influence upon the operations of the Public Health Service if Reorganization Plan No. 27 is adopted by the Congress was submitted to the committee by the American Dental Association. Excerpts follow:

Subchapter 1 of title 42 of the United States Code relates to the administration of the Public Health Service. Section 201 (c) of that subchapter states that the term "Administrator" means the Federal Security Administrator. Subsection (d) states that the term "regulations", when not otherwise specified, means rules and regulations made by the Surgeon General with the approval of the Administrator.

Section 202 states, "The Public Health Service in the Federal Security Agency shall be administered by the Surgeon General under the supervision and direction of the Administrator." Reorganization Plan No. 27 states (section 5), "There are hereby transferred to the Surgeon General * * * provided for in this section, all of the functions of the heretofore existing Surgeon General of the Public Health Service. * * *"

Under section 203 of title 42 the Public Health Service consists of (1) the office of the Surgeon General, (2) the National Institute of Health, (3) the Bureau of Medical Services, and (4) the Bureau of State Services. Under this section, the Surgeon General is authorized to abolish, transfer, establish, or consolidate various divisions, but only with the approval of the *Administrator*.

Under section 215 of title 42, "The *Administrator* is authorized, upon the request of the head of an executive department, to deliver officers or employees of the Service to such department for duty as agreed upon by the Administrator and the head of such department in order to cooperate in, or conduct work related to, the functions of such department or of the Service." Under section 216 (b) the Surgeon General, with the approval of the Administrator, unless specifically otherwise provided, shall promulgate all other regulations necessary to the administration of the Service. * * *" (The President prescribes regulations with respect to appointment, promotion, etc.)

Under section 218, a "National Advisory Health Council" is established. The Surgeon General, with the approval of the *Administrator* is to appoint 10 members. Under subsection (c) of the same section, the Surgeon General is to appoint the members of the National Advisory Health Council with the approval of the *Administrator*. Under subsection (d) the same is true with regard to the National Advisory Mental Health Council. Under subsections (f) and (g) the same is true with respect to the National Advisory Heart Council and the National Advisory Dental Research Council.

Under section 219 the *Administrator* is authorized to accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Public Health Service or for the carrying out of any of its functions.

Under section 222 insane patients entitled to treatment by the Public Health Service are to be admitted upon the order of the *Administrator* into St. Elizabeths Hospital. Under section 246, which relates generally to grants-in-aid for venereal-disease control, tuberculosis control, the maintenance of adequate public-health services at the local level, and heart disease control, the Surgeon General is directed with the approval of the *Administrator* to determine the total sum of certain appropriations which shall be available for allotment among the various States and under 246 (e) he is further to determine the amounts to be paid to each State from the allotments with the approval of the *Administrator*.

Under section 252 the Surgeon General is to provide for the surgical and mental examinations of aliens under the immigration laws subject to administrative regulations prescribed by the Attorney General and *medical regulations prescribed by the Surgeon General with the approval of the Administrator*.

Section 262 (d) authorizes the Surgeons General of the Public Health Service, Army, and Navy, to prescribe regulations for licensing of establishments to

manufacture or propagate biologicals, such as serums, toxins, virus, etc., subject to the approval of the *Administrator*.

Under section 264 the Surgeon General is authorized to make regulations to prevent the introduction, transmission, and spread of communicable diseases with the approval of the Administrator. Under the Hill-Burton Act (42 U. S. C. 291 et seq.), general regulations to be prescribed by the Surgeon General are made subject to the approval of the Federal Hospital Council and the *Administrator*.

Under Section 291 (k) the Federal Hospital Council is to consist of the Surgeon General and eight members appointed by the *Administrator*.

In connection with the above citations it should be borne in mind that plan No. 27 authorizes the Secretary to redelegate functions vested in him as he sees fit. Section 2 (c) of plan No. 27 provides:

> The Secretary may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of any function of the Secretary.

Section 3 of plan No. 27 creates an Under Secretary and an Assistant Secretary of Health, Education, and Security, and section 4 creates an Administrative Assistant Secretary, each of whom "shall perform such duties as the Secretary shall prescribe." Although the Surgeon General and the Commissioner of Education would report directly to the Secretary, opposing witnesses considered it likely that the Under Secretary, Assistant Secretary, and Administrative Assistant Secretary, none of whom would necessarily have professional qualifications, would nevertheless exert undesirable administrative influences upon those two substantive operating divisions of the department—particularly since those officers would discharge their duties as the Secretary personally directed.

Plan No. 27 does not transfer all health functions to the Surgeon General but only retains functions presently vested in that officer. Section 5 provides that the Surgeon General shall perform such "other duties" concerning health as the Secretary may prescribe pursuant to statute which, in the judgment of many witnesses, would permit the Secretary to dictate functions performed by the Surgeon General in addition to those presently vested by statute in him.

The submission of Reorganization Plan No. 27 to the Congress by the President implies rejection or at the least nonacceptance by the administration of the Hoover Commission's recommendations for the establishment of a proposed United Medical Administration, hearings upon which have been held by the House Committee on Expenditures and which are scheduled by the Senate Committee on Labor and Public Welfare. Witnesses expressed the conviction that establishment of a Department of Health, Education, and Security as proposed by Reorganization Plan No. 27 would, as far as the administration is concerned, relegate either the proposed United Medical Administration or an independent Public Health Service, to the scrap heap.

Section 6 of plan No. 27 which would authorize the Secretary to establish central controls over supply, budgeting, accounting, and legal services, as well as other activities common to the Department's diversified agencies, implies strongly that those representative agencies would have little voice in the direction of those important activities. For example, it was pointed out the Secretary under provisions of section 6 quite conceivably could successfully veto budget requests of the individual agencies in the interest of an over-all Department budget which he would dictate. Such action in the final analysis would

allow the Secretary to strongly influence the activities of either the Public Health Service or the Office of Education despite the statutory independence they at present possess. It is obvious that whoever approves budget requests exerts a dominating influence upon operations of an executive agency.

Greater Federal or Executive influence over education would result from adoption of Reorganization Plan No. 27. Cabinet representation by a welfare-minded Secretary, many witnesses affirmed, not only would produce greater Federal control, but would constitute a severe set-back to education at the State level at a time when the Nation's educational system is operating under severe strain as a result of the impact of World War II.

Nothing in plan No. 27 assures that a physician would head the Public Health Service or an educator the Office of Education. As witnesses pointed out, the language in section 5 that the Surgeon General and the Commissioner of Education shall "have professional qualifications, experience, and training appropriate to the duties of his office" is so broad that the professional qualifications required would be a matter of interpretation and, probably, dispute. For example, a career "administrator" quite easily could meet the alleged "professional qualifications" provided for in the plan.

No witness presented evidence that substantial economies would be effectuated by the provisions of Reorganization Plan No. 27. It was pointed out Cabinet representation might well result in greater pressure for still further expansion of welfare activities with increased expenditures rather than economies. Except for Cabinet status the plan, in the judgment of opposing witnesses, promises no improvements in operation of the Federal Security Agency at the present, or in the future.

HOOVER CITIZENS COMMITTEE OPPOSES PLAN NO. 27

The Citizens Committee for the Hoover Report, a civic organization founded to promote enactment of the Hoover Commission's recommendations, vigorously opposed Reorganization Plan No. 27 in the following language: [3]

> Reorganization Plan No. 27 is in conformance with recommendations of the Hoover Commission only to the extent that it grants departmental status to the social security and education functions of the Government now forming part of the activities of the Federal Security Agency.
>
> The plan is at variance with the Hoover Commission's recommendations in its inclusion of the health functions of the Federal Security Agency in the new Department. Under the Hoover Commission program, the Public Health Service of the Federal Security Agency would be one of the units in a new United Medical Administration.
>
> An important point at variance with principles underlying the Hoover Commission program is the retention of autonomous powers of the Public Health Service and the Office of Education in the proposed new Department of Health, Education, and Security. It is a basic rule of efficient government, as viewed by the Hoover Commission, that responsible and accountable administration requires the vesting of statutory authority in the Department head.
>
> Plan No. 27 also falls short of the Hoover Commission program in its failure to include in the new Department the Bureau of Indian Affairs and in its failure to transfer elsewhere food and drug regulatory functions now under the Federal Security Agency.

[3] Excerpt from statement of Robert L. Johnson, chairman, Citizens Committee for the Hoover Report.

Because of these marked differences from the recommendations of the Hoover Commission, the Citizens Committee for the Hoover Report is unable to give its support to Reorganization Plan No. 27.

It is our considered judgment that the reorganization program of the Hoover Commission would not be advanced by approval of Reorganization Plan No. 27.

The plan does nothing toward accomplishment of the objectives of the Commission in its recommendations for a new Cabinet Department to deal with education and security functions of the Government and for an independent United Medical Administration.

The plan is seriously defective from the standpoint of efficient organization in its retention of the autonomous powers of the Public Health Service and the Office of Education.

The plan would accomplish nothing beyond an increase in the prestige and power of the present Federal Security Agency. Such a result has little bearing upon the Hoover Commission's goal of a more efficient and economical Government.

CONCLUSION

Witnesses who appeared before the committee referred to the deterioration of the Public Health Service and the Office of Education within the Federal Security Agency. They recalled friction of the past few years between the Federal Security Administrator and the Public Health Service and the Office of Education which had resulted in the resigning of the heads of those two important offices.

Other witnesses reported "a definite weakening" in the Office of Education in recent years caused by budget diversions, reductions in various professional services, and curtailment in office space for the professional staff. This has resulted in decreased efficiency, and dissatisfaction among personnel, causing resignations of career employees.

In the judgment of the majority of the committee, the actual effect of plan No. 27 would be to "embalm" the present unhappy, unsatisfactory, and inefficient situation existing in the Federal Security Agency in a Cabinet Department with the prospect of even further subjugation to and domination of the Public Health Service and the Office of Education by a Welfare Secretary.

It is obvious that any semblance of autonomy and independence, which the proponents claim Reorganization Plan No. 27 gives to the Office of Education and the Public Health Service, is theoretical only and not realistic. For the reasons here presented the majority of the committee recommends that the Senate adopt Senate Resolution 302 and thus disapprove Reorganization Plan No. 27 of 1950.

APPENDIX A

[H. Doc. No. 610, 81st Cong., 2d sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING GOVERNMENT REORGANIZATION PLAN NO. 27 OF 1950, WHICH WILL CREATE A DEPARTMENT OF HEALTH, EDUCATION, AND SECURITY

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 27 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. This plan will create a Department of Health, Education, and Security, as one of the executive departments of the Government, and will transfer to it the functions and constituent units of the Federal Security Agency. The Department will be headed by a Secretary of Health, Education, and Security, who will be vested with essentially the same duties and authority as are now vested in the Federal Security Administrator.

It is unnecessary to recite again the considerations which make the creation of such a department desirable. As I pointed out in my message transmitting Reorganization Plan No. 1 of 1949, such action has repeatedly been recommended by my predecessors and myself, as well as by others who have studied our Government organization. The scope and importance of the functions of the Federal Security Agency plainly warrant departmental status. I feel that there should be no further delay in effecting this essential reorganization.

The present plan is designed to meet the major objections which were raised in opposition to the 1949 plan when it was disapproved by the Senate. A principal criticism of the 1949 plan was that, in centralizing all statutory authority in the Secretary, as recommended by the Commission on Organization of the Executive Branch of the Government, the plan threatened in matters of health and education unduly to subordinate professional judgment to nonprofessional domination. The present plan is not open to this criticism.

Under the present plan, the Surgeon General and the Commissioner of Education retain all the statutory authority and duties now vested in them. The Public Health Service and the Office of Education remain intact as statutory entities with statutory functions. The Surgeon General and the Commissioner of Education will have the same relationship to the Secretary of the new Department that they now have to the Federal Security Administrator.

Furthermore, the present plan provides that the Surgeon General and the Commissioner of Education, along with the Commissioner of Social Security, will report directly to the Secretary. This provision assures that these officials can deal directly with the Secretary in the performance of all matters in their respective fields of responsibility, and the Secretary will thus be in a position to transmit their views to the President and the Congress. It represents an additional safeguard against the fear of the possibility that the views of these officials could be unduly subordinated.

A further difference between this plan and last year's plan is in the name of the new Department. In the minds of some, the title "Department of Welfare," which was used in the 1949 plan, did not adequately comprehend the health and educational functions and implied their subordination. To avoid any possible misunderstanding, the present plan uses the longer and more explicit title, "Department of Health, Education, and Security."

The present plan retains one of the major advantages of the 1949 plan, namely, to permit the Secretary to establish central administrative services for the Department in the interest of efficiency and economy. Thus, he will be able, if he finds such purposes will be served, to centralize for the Department such services as procurement, budgeting, and accounting. This grant of authority is specifically limited so as not to infringe on the substantive professional responsibilities retained by officials within the Department.

Another advantage of the plan is that it provides for a uniform method of appointment for the positions of the Surgeon General, the Commissioner of Education, and the Commissioner of Social Security, Today, two of the three positions are filled by Presidential appointment, while the third is filled by appointment by the Administrator. Though the Surgeon General must be selected from the commissioned Regular Corps of the Public Health Service, no professional qualifications are now prescribed by law for the other two posts. The present plan provides that all three positions be filled by Presidential appointment, subject to Senate confirmation. In each case, appropriate professional qualifications are required and the selection of the Surgeon General from the commissioned corps will become discretionary rather than mandatory.

To the extent that this plan would give departmental status to the agency administering the social-security and educational functions, it is in accord with the one recommendation of the Commission on Organization of the Executive Branch for the creation of a new executive department. I recognize, as I did last year, that the Commission made a further recommendation with respect to the organization of the health functions of the Government. The adoption of this plan will not in any way interfere with further adjustments in the functions of the new Department either by statute or reorganization plan.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 27 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949. I also have found and hereby declare that by reason of these reorganizations it is necessary to include in the reorganization plan provisions for the appointment and compensation of the following officers: Secretary of Health, Education, and Security; Under Secretary of Health, Education, and Security; Assistant Secretary

of Health, Education, and Security; Administrative Assistant Secretary of Health, Education, and Security; Surgeon General of the Public Health Service; Commissioner of Education, and Commissioner of Social Security. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers of the executive branch of the Government.

The reorganization plan will go far toward providing the status and type of organization which the magnitude and importance of the functions now administered by the Federal Security Agency demand. It will facilitate coordination with other major segments of the executive branch through the granting of Cabinet status. It will provide a more adequate supervisory structure and will contribute to administrative efficiency and economy. Consistent with the Reorganization Act itself, the plan neither provides for any new program nor extends or enlarges existing programs beyond the scope of present legislation.

While it is not practicable at this time to estimate the savings that will accrue from the plan, modest but worth-while economies will result from the factors already cited together with the authority conferred by the plan to improve the administration of the services common to the various agencies of the Department.

The creation of this new Department is long overdue. While I do not believe that the criticisms advanced against plan No. 1 of 1949 were well founded, the present plan has been substantially modified to meet them. I recognize that as a result the present plan falls short of what I would regard, and what the Commission on Organization regarded, as the clearest lines of responsibility and authority within executive departments. Nevertheless, in my judgment, the present plan is still an important step forward toward better organization of the executive branch. It provides an adequate basis for establishing this new executive department. I strongly urge that the Congress allow this reorganization plan to become effective.

HARRY S. TRUMAN.

THE WHITE HOUSE,
May 31, 1950.

REORGANIZATION PLAN NO. 27 OF 1950

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 31, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949

DEPARTMENT OF HEALTH, EDUCATION, AND SECURITY

SECTION 1. *Creation of Department.*—(a) There is hereby established a Department of Health, Education, and Security, hereinafter referred to as the Department, which shall be an executive department.

(b) All agencies of the Federal Security Agency, together with their respective functions, records, property, personnel, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, and all other records, property, personnel, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, of the Federal Security Agency, are hereby transferred to the Department.

SEC. 2. *Secretary of Health, Education, and Security.*—(a) There shall be at the head of the Department a Secretary of Health, Education, and Security, hereinafter referred to as the Secretary, who shall be appointed by the President by and with the advice and consent of the Senate and who shall receive compensation at the rate now or hereafter provided by law for the heads of executive departments.

(b) All functions of the Federal Security Administrator are hereby transferred to the Secretary.

(c) The Secretary may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of any function of the Secretary.

SEC. 3. *Under Secretary and Assistant Secretary of Health, Education, and Security.*—There shall be in the Department an Under Secretary of Health, Education, and Security and an Assistant Secretary of Health, Education, and Security, each of whom shall (1) be appointed by the President, by and with the advice and consent of the Senate, (2) perform such duties as the Secretary shall prescribe, and (3) receive compensation at the rate now or hereafter provided by law for the Under Secretaries and Assistant Secretaries, respectively, of executive departments. The Under Secretary (or, during the absence or disability of the Under Secretary or in the event of a vacancy in his office, the Assistant Secretary) shall be Acting Secretary and perform the functions of the Secretary during the

absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

SEC. 4. *Administrative Assistant Secretary.*—There shall be in the Department an Administrative Assistant Secretary of Health, Education, and Security, who shall be appointed, with the approval of the President, by the Secretary under the classified civil service, who shall perform such duties as the Secretary shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

SEC. 5. *Other officers.*—There are hereby established, in the Department, the offices of (1) Surgeon General of the Public Health Service, (2) Commissioner of Education, and (3) Commissioner of Social Security. The Surgeon General shall be the head of the Public Health Service and shall perform such other duties concerning health as may be required by law or as the Secretary may prescribe pursuant to law. The Commissioner of Education shall be the head of the Office of Education and shall perform such other duties concerning education as may be required by law or as the Secretary may prescribe pursuant to law. The Commissioner of Social Security shall be the head of the Social Security Administration and shall perform such other duties concerning social security and public welfare as may be required by law or as the Secretary may prescribe pursuant to law. There are hereby transferred to the Surgeon General and to the Commissioner of Education, provided for in this section, all of the functions of the heretofore existing Surgeon General of the Public Health Service and all of the functions of the heretofore existing Commissioner of Education, respectively. The Surgeon General, the Commissioner of Education, and the Commissioner of Social Security shall each report directly to the Secretary; have professional qualifications, experience, and training appropriate to the duties of his office; be appointed by the President, by and with the advice and consent of the Senate; and (except in the case of a Surgeon General who is a member of the commissioned Regular Corps of the Public Health Service) receive compensation at the rate of $14,000 per annum. The Surgeon General shall hold office for a term of four years. The Surgeon General may be appointed from the commissioned Regular Corps of the Public Health Service, and if so appointed (1) he shall not cease to be a member of such corps by reason of his appointment as Surgeon General, and (2) provisions of law applicable to the heretofore existing office of Surgeon General of the Public Health Service, including those with respect to pay and allowances, shall be applicable to him.

SEC. 6. *Administrative services.*—In the interest of economy and efficiency the Secretary may from time to time establish central administrative services in fields of procurement, budgeting, accounting, library, legal, and other services and activities common to the several agencies of the Department; and the Secretary may effect such transfers within the Department of the personnel employed, the property and records used or held, and the funds available for use in connection with such administrative service activities as he may deem necessary for the conduct of any services so established: *Provided, however,* That nothing contained in this section shall be deemed to authorize the Secretary to transfer or remove from the control of the Surgeon General, the Commissioner of Education, or the Commissioner of Social Security any professional or substantive functions vested in them respectively under the provisions of this reorganization plan or of law hereafter enacted.

SEC. 7. *Abolitions.*—There are hereby abolished (1) the Federal Security Agency (exclusive of the agencies transferred by the provisions of section 1 (b) of this reorganization plan), (2) the office of Federal Security Administrator, (3) the office of Assistant Federal Security Administrator, (4) the two offices of assistant heads of the Federal Security Agency provided for in section 5 of Reorganization Plan No. 2 of 1946 (60 Stat. 1095), (5) the heretofore existing office of Surgeon General of the Public Health Service and (6) the heretofore existing office of Commissioner of Education.

SEC. 8. *Interim officers.*—The President may designate and empower any person who is an officer of the Federal Security Agency immediately prior to the taking effect of the provisions of this reorganization plan to perform for a period not exceeding 60 days the functions of any office provided for by sections 2, 3, 4, or 5 of this reorganization plan pending the appointment of the first person appointed to such office. While so performing said functions any person designated hereunder shall have the title of the office concerned, with the prefix "Acting," and, if the President so directs, receive the compensation of such office. No person designated under this section shall be reason of such designation forfeit his rights with respect to his office held immediately prior to the taking effect of the provisions of this reorganization plan.

○

Calendar No. 1946

81ST CONGRESS
2D SESSION

S. RES. 302

[Report No. 1943]

IN THE SENATE OF THE UNITED STATES

JUNE 22 (legislative day, JUNE 7), 1950

Mr. TAFT (for himself, Mr. BUTLER, Mr. SMITH of New Jersey, Mr. BRICKER, Mr. KNOWLAND, Mr. MUNDT, and Mr. HENDRICKSON) submitted the following resolution; which was referred to the Committee on Expenditures in the Executive Departments

JULY 10 (legislative day, JULY 1), 1950

Reported favorably, by Mr. MCCLELLAN

RESOLUTION

Resolved, That the Senate does not favor the Reorganization Plan Numbered 27 of 1950 transmitted to Congress by the President on May 31, 1950.

Calendar No. 1946

81st CONGRESS
2d Session

S. RES. 302

[Report No. 1943]

RESOLUTION

Disapproving Reorganization Plan Numbered 27 of 1950.

By Mr. Taft, Mr. Butler, Mr. Smith of New Jersey, Mr. Bricker, Mr. Knowland, Mr. Mundt, and Mr. Hendrickson

June 22 (legislative day, June 7), 1950
Referred to the Committee on Expenditures in the Executive Departments

July 10 (legislative day, July 1), 1950
Reported favorably

With the following committee amendment:

Page 1, line 8, strike out "child" and insert "stepchild."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. JAYE KURUSU MADDOX

The Clerk called the bill (H. R. 8935) for the relief of Mrs. Jaye Kurusu Maddox.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That Mrs. Jaye Kurusu Maddox, who lost her citizenship under the operation of section 401 (e) of the Nationality Act of 1940, as amended, may be naturalized by taking prior to 1 year from the enactment of this act, before any diplomatic or consular officer of the United States abroad, the oaths prescribed by section 335 of the Nationality Act of 1940, as amended.

SEC 2. From and after naturalization under this act, Mrs. Maddox shall have the same citizenship status as that which existed immediately prior to its loss.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ENRICA GIANOLI

The Clerk called the bill (H. R. 8009) for the relief of Enrica Gianoli.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of immigration and naturalization laws, the alien, Enrica Gianoli, shall be considered to be the natural-born daughter of Mr. and Mrs. James Gianoli, of Rockford, Ill., citizens of the United States.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. HOFFMAN of Michigan. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Obviously a quorum is not present.

Mr. McCORMACK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 196]

Abbitt	Chudoff	Hall,
Allen, La.	Colmer	Edwin Arthur
Anderson, Calif.	Combs	Harden
Angell	Cooper	Hare
Barrett, Wyo.	Davenport	Harris
Bennett, Mich.	Dingell	Hébert
Bentsen	Dondero	Heller
Boggs, La.	Durham	Hill
Bolton, Ohio	Engel, Mich.	Hinshaw
Bonner	Evins	Huber
Brooks	Fogarty	Irving
Bryson	Frazier	Jackson, Calif.
Bulwinkle	Furcolo	Jackson, Wash.
Burnside	Gillette	Johnson
Carlyle	Gilmer	Jones, N. C.
Carroll	Gordon	Keefe
Case, S. Dak.	Graham	Kelley, Pa.
Celler	Grant	Kennedy
Chesney	Green	Klein
Christopher	Gregory	Lane
Lodge	Plumley	Steed
McGrath	Powell	Sutton
McMillen, Ill.	Preston	Tackett
Marcantonio	Priest	Teague
Mason	Quinn	Thomas
Miles	Rabaut	Thompson
Mitchell	Regan	Velde
Monroney	Rhodes	Vinson
Morris	Richards	Wagner
Morrison	Rivers	Wheeler
Morton	Rooney	White, Idaho
Moulder	Roosevelt	Wickersham
Murdock	Sabath	Wier
Nelson	Sadowski	Willis
Norton	Sikes	Wilson, Okla.
Pace	Sims	Winstead
Patman	Smathers	Wood
Pfeiffer,	Smith, Ohio	Woodhouse
William L.	Smith, Va.	Zablocki
Phillips, Tenn.	Staggers	
Pickett	Stanley	

The SPEAKER. On this roll call 304 Members are present, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REORGANIZATION PLAN NO. 27 OF 1950, TO CREATE A DEPARTMENT OF HEALTH, EDUCATION, AND SECURITY

Mr. DAWSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 647) disapproving Reorganization Plan No. 27 of 1950; and pending that motion I ask unanimous consent that debate on the resolution may continue not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from Michigan [Mr. HOFFMAN] and myself.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 647) disapproving Reorganization Plan No. 27 of 1950, with Mr. McSWEENEY in the chair.

The Clerk read the title of the resolution.

By unanimous consent, the first reading of the resolution was dispensed with.

Mr. DAWSON. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the Committee on Expenditures in the Executive Departments, to whom was referred the resolution (H. Res. 647) disapproving Reorganization Plan No. 27 of 1950, having considered the same, report unfavorably thereon without amendment and recommend that the resolution do not pass.

Mr. Chairman, I am in favor of this proposal to create a new executive department, and I trust that my colleagues will support Reorganization Plan No. 27 by rejecting House Resolution 647 and thereby help in establishing a more effective instrumentality for the essential well-being of our country, a Department of Health, Education, and Security.

In general Reorganization Plan No. 27 creates a new executive department to be known as the Department of Health, Education, and Security. To this new department are transferred all the functions and agencies of the Federal Security Agency. In this fashion, recognition at Cabinet level would be given the fields of health, education, and social security; thus these programs would be placed on a parity with other vital elements of our national economy, such as labor, commerce, and agriculture. If we were to choose a time when the Congress should pass favorably this matter, and if it were left to me who believes in the creation of this department, in the light of past history we could not choose a better time than now.

In the light of past history there could not be a more opportune time for the Congress to consider this matter than the present time. When we consider what happened at the beginning of World War I, when we consider what happened at the beginning of World War II and the great force and influence that were exerted upon this Nation after the declaration of those two great wars and preparing for those wars, when we know of the great work that was done by the Federal Security Agency in aiding our war effort, I said, Mr. Chairman, that we could not render a greater service to this Nation than to create this Department of Health, Education, and Security at this time when once again it seems that this Nation of ours is faced with troubles upon foreign battlefields.

You can go back in your mind and remember the condition of this Nation at the beginning of World War II, you can remembered the number of doctors that were needed, you can remember the number of nurses that were needed; you can remember the number of other trained personnel that were needed in the war effort that were furnished by the Federal Security Agency. Suppose at that time this great Agency had Cabinet status during those trying years when the President called together his Cabinet? Certainly there should have been someone at that Cabinet meeting whose duty it was to report to the President the condition of the human resources of this Nation. We made that mistake in those days. But you can see the work that was done by comparing the size of the Federal Security Agency after the war with what it was before the war. Today that agency has 34,000 employees, which reaches into every home and every hamlet in this land. Today it is working in harmony with the States on education, on health, and on security. Certainly as we face these trying times we want to place the head of this agency that is charged with these responsibilities on a rank as a Cabinet member to meet with our President.

So I say to you that the time is opportune to do this in the light of past history. Past history is useful only when you use it as a light to guide your steps in the present and in the future. If you are going to profit by past history, then I say to you that unanimously we ought to vote today to reject this resolution and to establish the Federal Security Agency as a Cabinet status under the title of Health, Education, and Security—health, education, and security that reach down to every home in this Nation. Certainly if we are interested in agriculture, the welfare of cows, cer-

tainly if we are interested in promoting business, the time has come, in the light of past history, when we have got to be interested in the human beings and their relationship and their welfare in this Nation of ours.

So, I am saying to you that if we do our duty this day and House Resolution 647 will have been rejected by this Congress, a new department, the Department of Health, Education, and Security, will have been created and the head of it will be given Cabinet status. Now, who are those who oppose it? We had unlimited hearings. We certainly sent out invitations to every Congressman to send in those who wished to testify, whether they were pro or con. As chairman of the Committee on Expenditures in the Executive Departments, let me ask you as to where the main opposition came from. It came from the same source that should be standing here today advocating this measure, in the light of past experience. The doctors of this Nation are organized; they are against it. They came in and as an organization said they were against it, but when we asked them, "Why are you against it?" they said "Because we want a health department and we are not going to vote for this until we get our health department." That is what they said, and they are concerned only with their own little group.

I know they have canvassed this Congress. I have received letters from them advocating the defeat of this plan, not because they are human beings involved, and more Americans involved under this act than many other departments so far created, but for their own personal profession they want a department of health.

Mr. Chairman, I submit to you that if they want a department of health this has nothing to with it. What we are doing today is taking an existing agency and giving it Cabinet status, because it is entitled to it by every rule that you can apply. Then, is they deserve their department of health, let them come in as all others have come in and let them fight for it. But, no, like a dog in a manger, they stand there; they cannot eat the hay but they will not let the horse eat it because they cannot eat it. That is the position they are taking in this matter. I say to you that if you love your country, I say to you that if you have the welfare of the people of this nation at heart, then you will defeat this resolution and you will let this Presidential plan go into effect. Why should you not let it go into effect?

Mr. REES. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield to the gentleman from Kansas.

Mr. REES. As I understand, all in the world you are doing here is to put the Federal Security Agency in a Cabinet status; is that correct?

Mr. DAWSON. That is not correct.

Mr. REES. That is about the whole picture, is it not?

Mr. DAWSON. Twice the President has sent down plans to Congress advocating the Hoover Commission recommendations, to make a department of it, but twice the Congress has raised objections, and those objections are met in plan 27. Every objection raised by the Congress heretofore in turning down other reorganization plans has been met in this plan and so, sir, it is not exactly turning the agency over. You turned down one plan because you said you wanted professional men at the head of each of these bureaus. So, the President here gives you professional men at the head, and every objection raised in turning down previous plans has been met in this plan. Now, I wonder what the new objection is that you are going to bring in. You say it does not agree with the Hoover Commission. Well, the other plans did, and you turned them down, but this is a plan that meets every objection that has been raised up to this day by the Congress.

Mr. REES. I am seeking information. I am asking whether this measure that you are advocating today provides for giving the Social Security Agency head Cabinet status. That is right, is it not?

Mr. DAWSON. The head of the new department will have Cabinet status, yes.

Mr. REES. The new department is practically the same as the present Social Security Agency?

Mr. DAWSON. Practically, yes. There are some variations.

Mr. MILLER of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield.

Mr. MILLER of Nebraska. Can the gentleman tell us whether this plan as it is now before the Congress conforms with all the recommendations made first by the Hoover Commission, and second by the Citizens Committee which was later formed to put into action the recommendations of the Hoover Commission?

Mr. DAWSON. To answer that question is to answer the question of all those who seek to hide behind the Hoover Commission's report in one breath and fight a plan in the other.

Mr. MILLER of Nebraska. Tell me "yes" or "no." I would like to know.

Mr. DAWSON. The gentleman cannot put words into my mouth. I will answer his question. No; it does not contain a medical administration. The health department is not taken out. The Hoover Commission recommended a health administration. We have before our committee now, and are hearing testimony on it, a bill which, if it is passed by the House, would give you that recommendation. But no President, no Congress, no Senate, can write any one bill that embraces all the recommendations of the Hoover Commission. So you will find them coming in here and saying, "I would be for it but it does not agree with the Hoover Commission recommendations in some detail." The Citizens Committee said that. They said, and I will get the testimony to show it, "If you dropped an atomic bomb it could not change us on our stand. We will not dot an 'i' or cross a 't.' If anything is not word for word with what the Hoover Commission said, then we are not going to take it."

Certainly this Congress will never be governed by some outside agency that has not been charged by the people of this Nation with the responsibility of passing legislation. In the final analysis you are not going to hide behind anything but your actions. I say to those who have made the recommendations of the AMA a part of their policy that the people of this Nation want this legislation. For every doctor there are 300 persons, including many doctors that want this legislation. You set it up in your platform. Your candidate for President said he would create it. Now what holds you from going through with your platform and the words of your then potential President? Thank God, the present President said he would do it, President Truman said he would do it, and today we are here submitting it to the Congress according to the platform and according to the promise of the Democratic nominee for President at the last election.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield to the gentleman from Pennsylvania.

Mr. RICH. The only reason we do not want this legislation is that we do not want socialized medicine. We know we do not want to socialize this country.

Mr. DAWSON. There you are. Of course, we do not want socialized medicine. The opposition put that up as a reason why they will not vote for this. There is not a thing in this that can give anybody socialized medicine. You can never have socialized medicine unless the Congress passes the necessary legislation. But why not cross that bridge when you come to it? You know you are merely raising a smoke screen. There will never be socialized medicine in this Nation until the people and the Congress itself passes the necessary legislation, and you know it.

Mr. RICH. The reason that we do not want this is that we are afraid, because you are just starting in, going one step further, one step further, one step further, and the first thing you know you will be there. My colleague from Illinois has been fooled so badly he does not know what it is all about.

Mr. DAWSON. When 1,000 American soldiers over there in Korea were surrounded by 10,000 North Koreans, they were not afraid to face the future. They tried to settle the problem which faced them then.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield.

Mr. McCORMACK. The gentleman from Pennsylvania [Mr. RICH] states the truth when he says they are opposed to it because of their fear of socialized medicine. Fear—those same gentlemen opposed social security because of that same fear. Those same gentlemen opposed minimum-wage legislation because of that same fear. Those same gentlemen oppose every progressive piece of legislation because of fear. If we were legislating on the basis of fear we would be living in the Dark Ages today.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield to the distinguished member of my committee.

Mr. RICH. I appreciate the courtesy of my distinguished chairman. I want to say to the distinguished majority leader that the public of this country have a right to fear because of the things you have been doing to this Nation. You have it pretty near wrecked now and they have to fear the things you are doing because we and the country at large do not know where we are at now and it is things like that that will wreck this Nation.

Mr. DAWSON. This Nation economically and industrially is in better shope than it ever has been. We are producing more than we have ever produced. Our national income is higher than it ever was, and yet you shout "fear."

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield.

Mr. McCORMACK. If we were to follow the leadership of the gentleman from Pennsylvania [Mr. RICH] much as we like him personally——

Mr. DAWSON. I admire the gentleman.

Mr. McCORMACK. If we were to follow his leadership, this country would certainly be in a tough position.

Mr. CURTIS. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield.

Mr. CURTIS. How much money will this save?

Mr. DAWSON. I will give you something of a breakdown. In the tabulating department we aim to save $10,000. In the mail service department we aim to save another $25,000. On payroll, leave and retirement we aim to save $15,000. In procurement, storage and issue we mean to save $20,000. On centralization of accounting for the Bureau, and so forth, we expect to save another $30,000. In addition, there are many other areas where savings can be had.

Mr. Chairman, we believe we can do that—and that is just the beginning.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. DAWSON. I yield.

Mr. HOFFMAN of Michigan. The gentleman has been talking about doctors and characterizing them, if I understood him correctly, as dogs in the manger.

Mr. DAWSON. That was merely an illustration from the classics. I did not write that. I am not the author of that expression. That is in the classics—about a dog who would not let these animals eat the hay.

Mr. HOFFMAN of Michigan. If the plan goes through, the doctors will still be treating the sick, will they not?

Mr. DAWSON. If the plan goes through, the doctors will be benefited more than they have ever been benefited by any one piece of legislation in the history of this Nation.

Mr. HOFFMAN of Michigan. And if the plan goes through, then the doctors will be under the control of a politician—the people will suffer.

Mr. DAWSON. The doctors will be just like big business. Big business did not want social security, and now they would not give it up for anything in the world. They are benefited by it.

Mr. O'TOOLE. Mr. Chairman, will the genleman yield?

Mr. DAWSON. I yield.

Mr. O'TOOLE. I do not remember the gentleman from Pennsylvania crying socialism when we made it possible to insure bank accounts.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield myself just a half a minute to call attention to the fact that I did not quite finish my question to the gentleman from Illinois [Mr. DAWSON]. The proposition was this: the gentleman was talking about the selfishness and the greed of the doctors, but whether the plan goes through or whether it does not, the people of this country who are ill will still be treated by the doctors.

Mr. DAWSON. And they will be paid for it.

Mr. HOFFMAN of Michigan. Just a moment. May I make my statement, please?

The only difference will be if the plan goes through, so far as socialized medicine is concerned, that the doctors will have as a top boss some politician.

Mr. Chairman, I now yield 5 minutes to the gentleman from Illinois [Mr. ARENDS].

Mr. ARENDS. Mr. Chairman, I do not know whether I should refer to this or not, but the gentleman from Massachusetts, the majority leader, said that if this had not happened, or that had not happened, we would be in trouble today. Well, I read the paper this morning and I came to the conclusion that we were in trouble today. I am really troubled about the situation in the world today, so I do not believe I would pass that off by saying we would be in trouble.

Mr. Chairman, I wish to make a brief statement as to why I shall vote for the pending resolution to disapprove Reorganization Plan No. 27 to establish a Department of Health, Education, and Security.

In truth, this is not even a reorganization plan. It reorganizes nothing. It would be much more accurate to call it a political-promotion plan for the advancement of socialized medicine. I do not see how anyone can reach any other conclusion.

In my judgment, this plan conforms to none of the objectives of the reorganization act for efficiency and economy. It does not abolish a single agency or function. It does not transfer a single agency or function. It does not consolidate agencies performing similar functions. It does not propose any regrouping of agencies in accordance with their major purposes. It does not eliminate overlapping or duplications.

Instead of reducing expenditures, this plan will lead to increased spending. Instead of less government, this plan proposes more government. Instead of promoting efficiency, this plan will bring about political control in those fields, such as education and public health, where there should be a very minimum of such control.

I ask that you take a good hard look at what this plan actually does. It simply takes all the agencies and their functions now constituting the Federal Security Agency and makes a Department out of the Federal Security Agency. It thereby promotes the Federal Security Administrator, Mr. Oscar Ewing, who incidentally is one of the leading advocates of socialized medicine, to the highly desirable rank of a cabinet officer, with the salary and prestige commensurate with that rank.

By its terms the plan also creates three additional high-salaried positions; an Under Secretary of Health, Education, and Security, an Assistant Secretary of Health, Education, and Security, and an Administrative Assistant Secretary.

We know from experience with Government budget matters that a host of other jobs to serve these new high rank officers will, in due course, be set up. We also know that each of these new Secretaries will undoubtedly use the power and prestige of their respective offices to try to enlarge upon the various programs that come under their jurisdiction. There is hardly any doubt that Mr. Ewing will use the prestige and influence of his new rank of Secretary in the President's cabinet to promote the socialized medicine program he has been vigorously advocating as Federal Security Administrator.

In more ways than one, Mr. Chairman, plan No. 27 is not a reorganization plan but a political promotion plan, not only for certain individuals but also for the socialized medicine program. If that is not the undisclosed purpose of the plan, I do not know what its purpose possibly could be. The plan not only does not conform to the Hoover Commission recommendations, it runs counter to them.

In a supplemental task force report issued in March of last year, the Hoover Commission gave special consideration to the very question before us in plan No. 27. It definitely recommended that the health activities of the Federal Government not be included in a new Cabinet-level department embracing health, education, and security. On the contrary, it recommended that the health activities be consolidated in an independent agency.

It has been said that at some subsequent date the health functions could be taken out of the proposed new Department. You and I know that if this plan becomes effective, we will never be able to transfer the health functions to an independent agency. Mr. Ewing has publicly expressed his opposition to the establishment of any independent medical administration. Obviously, President Truman has no intention to submit any plan to do this; and obviously if we should attempt to pass legislation to this end, the bill will be vetoed on the recommendation of the new Secretary of Health, Education, and Security.

Unless we reject this plan the important health-promotion activities of the Government will be frozen in a multipurpose department, and as the Hoover Commission task force pointed out, the health functions will be impeded by col-

lateral considerations pertaining to welfare and insurance.

As I stated at the outset, there is nothing proposed by this plan that would affect a much-needed reorganization to effectuate economy and efficiency. The raising of the Federal Security Agency to the status of a Department will not, for example, achieve the improved management that the Committee on Post Office and Civil Service recommends in a report it filed last month. This report shows that the Federal Security Agency is now overstaffed. It points out that there is much the Agency can now do by administrative action to accomplish savings and promote efficiency. This plan will not accomplish that objective. On the contrary, it will result in still further increases in personnel and increased expenditures.

Mr. Chairman, we are today faced with a very grave international situation. We do not know what extraordinary expenditures we will be called upon to make for national defense. Even without these unforeseeable financial demands for our own safety, we are now operating in the red and our people are bearing a heavy tax load.

I earnestly urge the House to reject this plan. It will not save a cent. On the contrary, it will add still further to the high cost of government. This we cannot afford.

Mr. DAWSON. Mr. Chairman, I yield 15 minutes to the gentleman from California [Mr. HOLIFIELD].

Mr. HOLIFIELD. Mr. Chairman, I hope to bring some light to this subject in the time which has been allotted to me.

In the first place I want to say that this decision today has nothing to do with socialized medicine. It does not change the statutory functions of the three main divisions of the Federal Security Agency one iota. The Divisions of Education, of Social Security, and of Health will continue to function just as they do now within the same statutory authority; so the bringing up of socialized medicine as a smoke screen against this particular plan, in my opinion, is wholly reprehensible.

What is the reason for this plan No. 27? In the first place, for the past 30 years different commissions, such as the Brookings Institution, the Joint Committee on Reorganization in 1924, many Presidents such as President Harding as far back as 1923, have all agreed that the social security agencies which deal with these functions should have Cabinet status, and that is what this plan does. This plan gives to the Federal Security Agency Cabinet status, and it would make the head of that administration a Cabinet member. Why is that desirable? It is desirable for many reasons. We have a Department of Labor which is for the purpose of promoting and fostering the welfare of labor in this country. We have a Department of Commerce to foster and promote business in this country. We have a Department of Defense for its obvious purpose. We have a Department of the Interior to serve and promote and preserve our natural resources. Where then is there anything objectionable in having a Department which deals with human beings, specifically with the welfare of human beings, whether it be in the field of education, in the field of health, or in the field of social security? That is what we are trying to do here with plan No. 27; we are trying to give to human beings, the welfare of human beings in these three fields, the same dignity, the same consideration in the eyes of the Nation and in the status of accessibility to the President, in the status of dignity before the people of the United States that we give to the Department of Agriculture, the Department of Natural Resources, and all the other Cabinet status Departments.

This is not anything new; this has been recommended for 30 years by impartial organizations, by practically every President from President Harding on up to the present President, including ex-President Hoover, who in his testimony before the Senate committee specifically said that these functions that are now in the Federal Security Agency should have the dignity of Cabinet status.

Mr. HALLECK. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield.

Mr. HALLECK. The gentleman will, of course, admit that the recommendation of the Hoover Commission was for the creation of a united medical administration apart from this Cabinet status.

Mr. HOLIFIELD. That is exactly right. I will ask the gentleman if he will answer me the question: Would he vote for a united medical administration in face of the known views of every veterans' organization and practically every other organization in the country?

Mr. HALLECK. The fact of the matter is the issue before us is whether or not these health functions shall be joined with the other functions.

Mr. HOLIFIELD. The gentleman has not answered the question. They are already joined. In the present status they are joined in the Federal Security Agency and they are not changed by this plan. So the gentleman has evaded the question. He does not want to say he will vote for a united medical administration but he will use that as an excuse for not voting for this plan.

Mr. HALLECK. Let me point out to the gentleman that in the last session you had legislation to create this new department. You did not bring it up because you knew you did not have a majority of the votes to pass it. The question today is whether or not there will be 218 here to vote against this plan. We are passing on this plan today and I propose to vote against it.

Mr. HOLIFIELD. I know the gentleman would vote against plan No. 27 but I want to say to the gentleman we had a plan, plan No. 1, in 1949 that embodied the substance of the legislation that was reported from the Expenditures Committee. That plan was rejected in the Senate. Why was it rejected? It was rejected on the ground they did not want to put in the head of the Federal Security Agency the authority and the functions and the responsibility of these three different departments.

So the President, in trying to meet the objections that were made at that time, and I can read them to the gentleman, sends us down now a plan which meets those objections and retains autonomous control in these departments. Immediately some of the gentleman who voted against the plan last time which comprised the organizational set-up of the Hoover Commission report will not vote for this, they say, because it does not comply. What is sauce one day happens to be something else the next day. But you cannot ride both sides of the same horse at the same time.

Mr. JUDD. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman who advocates the views of the American Medical Association.

Mr. JUDD. I have not even read the American Medical Association's views on this resolution, but I have been a physician for over 25 years, and my views are based on that experience. I am opposed to this, not because I am a physician but because of what I know as a physician about the conditions essential for good care of the sick. The gentleman from Illinois said that American doctors, like a dog in the manger, have opposed this when actually it is in their own interest. I am glad that the great majority of the American medical profession still is concerned more with the welfare of humanity, than of itself, and does not put its own interest ahead of that of the people and advocate something that it knows would be to the disadvantage, not the benefit of the people. The gentleman says that this bill has nothing to do with socialized medicine. Does he know the opinions regarding socialized medicine or nationalized medicine of most of the top men in the Federal Security Agency, including the present head of it?

Mr. HOLIFIELD. Let me say to the gentleman whether I know that or not is immaterial because the appointment of the heads of these different agencies will have to meet Senate approval. If at the time when this department is created these gentlemen do not meet the approval of the majority of the members on the other side of the Capitol they will not be accepted. Also I want to point out this plan makes it mandatory that professional qualification be had by the different heads of these three departments or they cannot be confirmed. That is something which does not exist at present.

Mr. JUDD. Will the gentleman please answer my question as to whether the leading people in the Federal Security Agency, not just Mr. Ewing but the men who run it, are in favor of a nationalized medical system? The gentleman heard their testimony before his committee. Did they not frankly testify before the committee that they did favor such a system?

Mr. HOLIFIELD. Whether they did or not does not concern itself with this plan today.

Mr. JUDD. But you can understand why people who are opposed to that type of medical service because they believe it is a step backward instead of forward,

hesitate to give such increased power to an agency which they know in advance favors that step.

Mr. HOLIFIELD. If the gentleman from Minnesota has read the plan he knows that no increased power is given to the Federal Security Administrator in a statutory or functional way in either one of the three departments.

Mr. JUDD. It gives it standing, prestige and influence that it does not have now.

Mr. HOLIFIELD. The gentleman because he is opposed to a different system of health insurance would deprive the people aided by Social Security and the people aided by education, of a cabinet status administrator, who could plead their case at high level.

Mr. JUDD. No; I would not deprive them of Cabinet status for the two you mentioned. I cannot see why your committee does not take out the health services and bring in a bill for education and security if it wants to. I am for that. I am not in favor of including in the same department the health features because I think it would be bad for the people of the country. It is not the way to get the better medical care you and I both want.

Mr. HOLIFIELD. You cannot set up a separate department for each agency.

Mr. JUDD. That would not be necessary. The medical profession has favored a department of health since last century, but I want at least a United Medical Administration, as the Hoover Commission recommended.

Mr. HOLIFIELD. You cannot have one for education, one for health, and one for security.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Massachusetts.

Mr. McCORMACK. It is the Department of Education that they fear more, and properly so, because of the fear of control of our schools in our States. I would like to ask the gentleman from Minnesota this question: Does the gentleman think that social-security legislation is socialism?

Mr. JUDD. No.

Mr. McCORMACK. No; but 15 years ago the cry against it was that it was socialism. I was a member of the subcommittee that drafted it and I was on the full committee that reported it out. You took the same opposition then that is being made now to progress, that it was socialism.

Mr. JUDD. Will the gentleman indicate why this proposed plan is progress?

Mr. McCORMACK. What is progress?

Mr. JUDD. The gentleman will admit that we have the best medical standards in the world, and they have been achieved by the medical profession on its own. Why is it progress the scrap that system?

Mr. McCORMACK. Does the gentleman know the number of families in America having a family income of $3,000 a year or less? Does the gentleman know that? Does the gentleman think that with a family income of $3,000 or less you can afford a physician when you are sick or seriously ill? Over 40 percent of the families of America have a total family income of $3,000 a year or less and 5,000,000 families in America have a total family income of $1,000 a year or less.

Mr. JUDD. Is the gentleman from Massachusetts in favor of socialized medicine?

Mr. McCORMACK. I am in favor of progress.

Mr. JUDD. Is the gentleman from Massachusetts in favor of socialized medicine?

Mr. McCORMACK. I am in favor of progress, just like I favor social security against the opposition of your party.

Mr. HOLIFIELD. Mr. Chairman, I decline to yield further. I want to thank these gentlemen for having used up a large part of my time. The fact that we adopt plan 27 today does not mean that further changes cannot be made. It does not mean that further changes in compliance with the Hoover Commission recommendations cannot be made. If this Congress desires to take the health function out of the Social Security Agency and pass the United Medical Administration recommendation, I assure you that our committee will see that you have an opportunity to vote on the United Medical Administration's recommendations.

Mr. JUDD. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I cannot yield further because of lack of time. Now, if the Food and Drug Administration should be taken out and separated into two different departments that the recommendation calls for, I say that you may have opportunity to do that. You have got to take these steps one step at a time. You cannot comply with all of the Hoover Commission recommendations in any one plan, and we have already shown, in making several changes, that we have taken consecutive steps. And, I call your attention to a specific measure. We transferred the Public Roads Administration over into General Services Administration, notwithstanding that it was specified that it should go to the Department of Commerce. Now later on we sent it over to the Department of Commerce. Why? Because we had to take it step at a time and do that which was administratively possible at that time. So then, when you make the complaint that this does not go all the way with all of the recommendations, you are simply evading the point; you are clouding the issue. You are refusing to go as far as you can go at any one time, and I say that setting this up into a department and giving it departmental status is going as far along the Hoover Commission line as there seems to be any chance of Congress allowing it to go. When you had the opportunity last year to go the whole way as far as organizational authority was concerned, you turned it down. They turned it down in the other body. So this plan comes back making this an executive department but still retaining some autonomous controls, statutory function controls in these different agencies which cannot be interfered with, mark you, unless by an act of Congress, by the present Federal Security Administrator or the man who would take his position.

So I say if you want to be fair, if you want to go along as far as you can go at this time, you will take just a step forward and allow the rest of these issues, which are wholly extraneous and have nothing to do with this issue, to be decided on their merits at the time the are presented.

Mr. JOSEPH L. PFEIFER. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from New York.

Mr. JOSEPH L. PFEIFER. Is it not true there has been much overlapping, waste, and inefficiency in the way it is carried on at the present time? This reorganization plan is a means of having a coordinating program to make it more efficient.

Mr. HOLIFIELD. This is a means of making the administrative part of the present Federal Security Agency more effective. It allows it in the fields of procurement, staff service, administration, and all the other administrative functions. It allows them to follow out the Hoover Commission recommendation, which is to remove overlapping and inefficiency, and which allows them to make savings in that field. But strictly from the standpoint of compromise with those who have objected, to show that the President wants to go along, that he wants to send down a plan which can obtain the acquiescence of the Congress, he has made certain adjustments which he thought necessary in order to get this plan approved.

Some people that objected to plan No. 1 of 1949 because it gave too much authority to the Federal Security Administrator now object because we retain the authority in separate departments and retain the functional authority there; but we do give the Social Security Administrator the chance to save in the field of administration.

Mr. JOSEPH L. PFEIFER. About 12 years ago I introduced a bill calling for a department of health with Cabinet status, but the administration did not seem it advisable and therefore would not consider it. However, I believe it very essential for we all know that the strength of a nation depends greatly upon the health of its citizenry—undoubtedly this reorganization plan will be an improvement over our present situation, nevertheless I still am of the opinion that an independent health department is necessary.

Mr. HOLIFIELD. There have been many bills introduced on that point. When you bring that united medical administration bill to the floor of the House not 20 percent of you will dare to vote for it. You will not dare to put the Veterans' Administration, the Public Health Service, and the military hospital services in one basket. I will challenge you on that, and I will eat my words on it if I have made a mistake.

Mr. Chairman, Reorganization Plan No. 27 of 1950, proposing the establishment of a Department of Health, Education, and Security, should receive the wholehearted and unanimous approval of this Congress. The objective of plan

No. 27—to give Cabinet status to important and related activities of the Federal Government affecting human welfare—has long been sought by persons prominent in American life. Presidents, special commissions, students of government, many Members of this body regardless of party, have recommended such a department numerous times within the last 30 years.

Back in 1923, President Harding proposed a Department of Welfare in a message to Congress. A similar recommendation was made by the Joint Committee on Reorganization in 1924. In 1937, both the President's Committee on Administrative Management and the Brookings Institution, in its report for the Senate Select Committee to Investigate the Executive Agencies of the Government, recommended a Department of Welfare to administer activities in the fields of education, health, and welfare. At least eight comprehensive plans for the reorganization of the executive branch developed by responsible officials and agencies in the last three decades have proposed departmental status for health, education, and welfare activities—six of them proposing to combine all these activities in a single department.

The operating nucleus for such a department was provided in 1939 by creation of the Federal Security Agency, which brought together under one roof many welfare functions scattered throughout the Government. The Reorganization Act enabling the President to set up the Federal Security Agency did not allow the Chief Executive to create a new executive department—otherwise a Department of Welfare in all likelihood would have been established in 1939.

The Reorganization Act of 1945 contained the same limitation respecting the creation of a new executive department. Reorganization Plan No. 2 of 1946, submitted by President Truman pursuant to the 1945 act, transferred additional functions to the Federal Security Agency. In his accompanying message the President emphasized that the 1946 plan, a second important step in building a central agency for the administration of Federal activities primarily relating to the conservation and development of human resources, should be followed by the third and final step of converting the Federal Security Agency into an executive department. Its size and scope, the importance of its functions, clearly justified departmental status and a permanent place in the President's Cabinet. As the President said:

> The fundamental character of its functions—education, health, welfare, social insurance—and their significance for the future of the country demand for it the highest level of administrative leadership and a voice in the central councils of the executive branch.

This recommendation was repeated by the President in many subsequent messages to the Congress.

The Reorganization Act of 1949 finally gave the President the authority to create a new executive department by reorganization plan. I emphasize this fact because one of the main reasons for striking out the limitation in the latest reorganization act was the anticipated transformation of the Federal Security Agency into a Cabinet department.

As Mr. Herbert Hoover said in testifying on this point:

> There is general acceptance of the idea of such a Department. (Hearings on S. 526, p. 81.)

Thereupon the Senate Committee on Expenditures in the Executive Departments, in reporting on S. 526, the reorganization bill, stated at page 7 of its report:

> The bill deletes the prohibitions contained in subparagraphs (1) and (2) of the 1945 act against creation of new executive departments by reorganization plan. At least one agency, the Federal Security Agency, has been established by plan which obviously is of departmental magnitude and importance and should have been designated as an executive department. No good purpose has been served by the old prohibition.

In conference the Senate proposal was accepted as part of the Reorganization Act. Therefore it is plain that the Congress, in framing a reorganization act which, for the first time, allowed the President to create an executive department, had in mind the conferring of Cabinet status on the Federal Security Agency.

In the spirit of this enabling legislation, the very first plan submitted pursuant thereto, Reorganization Plan No. 1 of 1949, proposed to reconstitute the Federal Security Agency as a Department of Welfare. This plan was rejected in the Senate. Sponsors of the resolution of disapproval reflected the opposition of those who expressed fear that constituent units of the department, like the Public Health Service, would be subordinated to welfare activities. They also expressed the fear that the professional direction of health and education matters would be vitiated by political considerations if full authority were conferred on the department head to organize and control his department, despite the fact that the Hoover Commission had made this basic recommendation for clear lines of authority and responsibility in all Cabinet departments—a recommendation now in effect for eight separate departments.

In submitting Reorganization Plan No. 27 of 1950, President Truman made a sincere effort to take account of the major objections to the earlier plan. The name of the new department—Health, Education, and Security—makes it clear that its three main elements will have coequal status. Each of the three principal constituent units, according to the plan, will be headed by a Commissioner appointed by the President with Senate confirmation. These Commissioners must have appropriate professional qualifications. The statutory functions of the units under the Surgeon General and the Commissioner of Education remain unimpaired. These officers will retain their statutory duties and will have the same relationship to the new department they now have to the Federal Security Administrator.

You will recall that Reorganization Plan No. 2 of 1946, abolished the Social Security Board and vested its functions in the Federal Security Administrator. The latter thereupon promptly delegated these functions to a professionally qualified Commissioner of Social Security.

Under the present reorganization plan, the professional qualifications of this Commissioner are explicitly guaranteed, as they are for the Surgeon General and the Commissioner of Education. Heretofore, such qualifications were not legally required of the Commissioners of Social Security and Education. In the case of the Surgeon General, it was required that the President select him from the Commissioned Regular Corps of the Public Health Service, but this now becomes discretionary rather than mandatory under the plan, affording a wider opportunity for the selection of a qualified professional head of the Public Health Service.

All three officials of the constituent services in the new department will be uniformly appointed by the President with Senate confirmation, whereas formerly the Commissioner of Social Security was appointed by the Federal Security Administrator.

In specifying that the constituent units of the Federal Security Agency are to be transferred intact to the new department under the present reorganization plan, the President recognized that this arrangement falls short of the Hoover Commission recommendation that the head of each department have full control over its internal organization. However, that proposal, embodied in the 1949 plan, did not find acceptance in the other body. The President acted in a spirit of reasonable compromise in submitting the substitute plan as a large step forward in better organization and in providing the basis for the desired cabinet-status department.

I say "better organization" because the present plan will give the Secretary most of the authority he would have had under the 1949 plan as regards administrative services. Thus he will be able, whenever it will serve the purposes of economy and efficiency, to centralize for the department such services as procurement, budgeting, and accounting. This grant of authority is specifically limited so as not to infringe on the substantive professional responsibilities within the department. Nevertheless, in supplying administrative services common to the various components of the department, the Secretary will have ample opportunities to effect savings. The Federal Security Administrator, in testimony before our committee, cited economies already effected through consolidating library services and integrating the field offices of the agencies now within the Federal Security Agency. He has instituted a survey, now under way, to determine further savings that can be effected if the present reorganization plan takes effect.

A subcommittee of the Committee on Post Office and Civil Service, in a recent investigation of the Federal Security Agency, has concluded:

> In the holding-company type of organization like the Federal Security Agency,

wherein related activities are placed under common supervision, it seems reasonable to assume that the most promising area for the development of efficiency and economy is in the common administrative staff services. Certainly less resistance would be encountered there and incalculable benefit could accrue from the welding together of these elements into a cogent whole (81st Cong., 2d sess., H. Rept. No. 2457, p. 21).

Not only cash savings but gains in the effectiveness of service are to be expected by the establishment of the new department. The Federal Security Administrator has testified that even more important than the centralization of administrative services, the plan will make possible efficient adaptation to the constantly changing requirements in personnel, procurement of supplies, and the like, occasioned by shifts in the nature and volume of work, organizational patterns, geographical dispersion, and experience.

Reorganization Plan No. 27 accords with the recommendations of the Hoover Commission in the fundamental sense that it confers departmental status upon activities now embraced within the Federal Security Agency. It departs from the recommendations of the Hoover Commission majority in that it does not effect all the organizational changes they recommended, principally the transfer of the Public Health Service from the Federal Security Agency to a United Medical Administration; the splitting up of the functions of the Food and Drug Administration, now in the Federal Security Agency, between the United Medical Administration and the Department of Agriculture; and the transfer of the Bureau of Indian Affairs from the Department of Interior to the new department, which would include the remaining functions of the Federal Security Agency.

The fact that Reorganization Plan No. 27 does not carry out every Hoover Commission recommendation bearing upon the subject cannot fairly be taken as an argument against the plan. Reorganization is a step-by-step process. If we adopt the difficult and unreasonable position that a plan should contain "all or nothing," then we will get nothing in reorganization.

Highly controversial matters are involved in some of the various organizational changes proposed by the Commission.

Several members of the Commission presented rather persuasive arguments why they thought it would be unwise to carry out these changes proposed by the majority. But while there were differences of judgment on the merits of a United Medical Administration, and of shifting around the Bureau of Indian Affairs or the Food and Drug Administration, there was unanimity of opinion on the importance of establishing a new Cabinet department. This is what Reorganization Plan No. 27 proposes to do.

The Members of this House well know that if this plan carried with it the establishment of a United Medial Administration it would have no chance of enactment at this time and for reasons unrelated to the merits of a Cabinet department embracing welfare activities.

By adopting Reorganization Plan No. 27 we do not preclude any further decisions along lines proposed by the Hoover Commission. Through legislation or reorganization plan we can make these other changes when and if they commend themselves as good public policy. Let us proceed to effectuate a public policy which Mr. Hoover and every member of his Commission agreed was good—the establishment of a Cabinet department for important welfare activities.

In fact, we have been proceeding systematically to make a number of organizational changes in the welfare field recommended by the Commission. Thus Reorganization Plan No. 2 of 1949 took the first such step in this Congress by transferring the Bureau of Employment Security from the Federal Security Agency to the Department of Labor. A second step was taken by plan No. 19 of 1950, which transferred the Bureau of Employees' Compensation and the Employees' Compensation Appeals Board from the Federal Security Agency to the Department of Labor. Both of these steps were recommended by the Hoover Commission.

While these reorganization plans removed functions from the Federal Security Agency considered more appropriate for administration within the Department of Labor, other steps have been taken to add functions appropriate to the Federal Security Agency. Thus Reorganization Plan No. 16 of 1950 transferred to the Federal Security Agency the functions of the General Services Administration relating to assistance to local school districts and grants and loans for water-pollution-control projects.

Reorganization Plan No. 27, which we consider today, is another step in the efficient organization of activities now within the Federal Security Agency—a step to give these programs the type of organization and status in the executive branch which their size and importance clearly demand.

The preponderant weight of testimony before our committee was in support of Reorganization Plan No. 27. The objections came mainly from spokesmen for the medical and dental professions and for part of the educational profession. These spokesmen based their objections on the ground that health and educational matters were entitled to separate departmental or agency status. Whatever the merits of these contentions—and I am willing to concede that they have some merit—it requires no elaborate demonstration to show that the creation of three separate cabinet departments at this time is completely impractical.

At some later date, if we decide that health and educational matters warrant separate organizations in the Government, we can establish such departments, just as the Department of Commerce and Labor was divided into two separate departments in 1913.

The Members' attention is called to the fact that claims for separate departmental status in health and education matters were reviewed and disapproved by a Senate committee during the Eightieth Congress, when the Taft-Fulbright bill, S. 140, was under consideration. That bill, as reported out by the Senate Expenditures Committee—Eightieth Congress, first session, Report No. 242—recommended a departmental organization substantially the same as now embodied in Reorganization Plan No. 27. It proposed to create a Department of Health, Education, and Security, including three main bureaus, a Bureau of Health, a Bureau of Education, and a Bureau of Public Welfare, each to be headed by an under secretary. The bill was also amended in committee to provide clearly that no additional functions be given to new department beyond those already authorized in previous legislation. Plan No. 27 also emphasizes that no new programs or functions are conferred.

It is instructive to note that the Senate committee deleted the provisions in the original bill setting forth specific professional qualifications for each of the under secretaries, and expressed its opinion that the President should not be restricted to limited fields in the selection of qualified administrative officers. Reorganization Plan No. 27 is more stringent in that it requires that each of the three unit heads are to be selected on the basis of appropriate professional qualifications.

The Senate committee report took cognizance of the contentions of spokesmen for medical and educational groups that each of these services was so important as to justify separate departmental status. However, the committee saw no likelihood that Congress would establish three separate new departments and pointed out that these would be contrary to economy efforts, and so forth. The committee said:

The basic effort should be to coordinate and consolidate governmental activities into one department particularly where functions are interrelated, in the interest of economy and efficiency of administration (p. 3).

Furthermore, the committee emphasized that the various fields covered in the proposed new Department are in many instances overlapping, and the public interest would better be served by an administration under the one Departmental set-up. Three separate bureaus were included in the bill in deference, as the committee said, to the wishes of the professional groups. Reorganization Plan No. 27, I may note, defers to the same wishes. The committee noted particularly that this formula was designed to encourage the medical groups to establish a comprehensive program within the proposed Department rather than to press their present efforts to create an independent health agency.

The committee report quoted Senator TAFT, a sponsor of S. 140 and related bills, as follows:

It is important that health be separate from welfare, and that they each be separate from education. It is obviously impossible to have three departments, one for each, and it seems to me proper to group them in one Department.

Senator TAFT was also quoted as follows:

I do not think the health people should object to a health agency reporting direct to a Cabinet officer, a man of Cabinet rank,

because I see no reason why such a man would not feel equally obliged to take care of health, as he does of welfare.

In the debate on Reorganization Plan No. 1 of 1949, Senator TAFT gave further explanation of his position on S. 140 and on the organization of a Welfare Department as follows—CONGRESSIONAL RECORD, August 15, 1949, page 11673:

Two years ago the Senator from Arkansas [Mr. FULBRIGHT] and I introduced a bill to create a new Department of Health, Welfare, and Education, but only because we did not feel there could be three new separate departments. We carefully provided that each one of these functions be placed in an autonomous section under a separate Under Secretary, reporting directly to the Cabinet officer, who was not given a whole raft of secretaries and under secretaries. By statute, we assigned all matters relating to health to an Under Secretary of Health, all those relating to welfare to an Under Secretary of Welfare, and those relating to education to an Under Secretary of Education. We put those departments under those Under Secretaries so they could not be shifted around. We gave, as I said, practically autonomous rights to those three Departments. The Secretary became a representative of those three groups in the Cabinet of the President of the United States, where I think there ought to be someone to speak for health, welfare, and education.

Senator FULBRIGHT likened this internal organization to that of the Military Establishment where organizational integrity of the component services is maintained.

Senator TAFT indicated in this course of debate on the 1949 plan that he would not have objected to a revised plan that would take account of the organizational plan he proposed. He said—CONGRESSIONAL RECORD, August 16, 1949, page 11782:

Mr. President, I may say that if this plan is rejected, the President will still have the opportunity at any moment to submit another plan.

The President has done exactly this. He has submitted another plan—the present one—having scrupulous regard to the organizational arrangements favored by Senator TAFT and other critics of the 1949 plan. I cannot see how any more suitable accommodation could have been devised. The President has acted in a spirit of utmost cooperation, refusing to let differences over organization stand in the way of the new cabinet Department which today commands almost universal endorsement.

Let us act today in that same spirit and approve Reorganization Plan No. 27.

(Mr. HOLIFIELD asked and was given permission to revise and extend his remarks.)

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield myself 15 seconds to ask the gentleman from Massachusetts whether he is in favor of or opposed to socialized medicine.

Mr. McCORMACK. Is the gentleman addressing that to me? What is socialized medicine?

Mr. HOFFMAN of Michigan. The gentleman declines to answer.

I yield back the balance of my time, Mr. Chairman.

Mr. McCORMACK. The gentleman does not know what he is talking about. He is just taking a few words out of the air. He thinks he is wise. He opposed social security, did he not? The gentleman does not answer.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. KEARNS].

(Mr. KEARNS asked and was given permission to revise and extend his remarks.)

Mr. KEARNS. Mr. Chairman, I am opposed to plan 27. As an educator I have come up through the ranks in the teaching profession. I know the trials and tribulations of the teacher and the school administrator, and I am not going to vote to put Oscar Ewing or any other administrator on their necks. I would take this stand even though a Republican were the administrator of the Social Security Agency today.

Instead of putting the United States Office of Education more firmly under the thumb of one of the departments we should be moving in the other direction. We should be taking the Office of Education out from under the politicians and putting it into the hands of the educators—and they should be real Americans, not just educators.

Plan No. 27 is a step backward in education. It more firmly implants partisan politics in our public-school system. The move should be in the other direction.

I am becoming a little fed up with plans. There are plans for the farmer; there are plans for labor; there are plans for little business; there are plans for minority groups—there are plans for every single group which seems to hold promise of a block of votes.

Not so long ago—out in St. Paul, Minn.—we saw the Brannan plan in operation. That is a plan to corral the farm vote.

Mr. Brannan's boys brought thousands of Department of Agriculture people to a central point to hear the message of the apostle from Washington. County agents and other personnel were brought to hear Mr. Brannan from far and wide—and the expenses were paid by the United States Government.

The United States taxpayer paid the expenses of those who attended this party convention. The United States taxpayer paid the bill to have himself sold a bill of goods.

I look with horror to the day when an Oscar Ewing can order the school teachers and school administrators to assemble to hear the message from above, with the taxpayer paying the bill.

Plan No. 27 is not good for the public-school system of the United States. It gives to the Secretary of Health, Education, and Security the authority to integrate in his office budgeting, accounting, library, legal, and other services and activities of the component agencies of the Department. It gives the Federal Security Administrator—or, as he will be called—the head of the Department of Health, Education, and Security—the authority to transfer personnel, records, and funds of the component agencies of the Department.

That means that the Secretary of the Department of Health, Education, and Security will get the authority to transfer United States Office of Education personnel, records, and funds. In short, plan No. 27 puts the present administration on top of the budget and the personnel of the United States Office of Education.

The Federal Government's role in education should be separate and distinct from partisan political objectives and free and clear of partisan political appointees. It must be surrounded with administrative procedures which will safeguard the educational processes of the United States from partisan politics.

The United States Office of Education should be an independent agency—not a subordinate office of the Department of Health, Education, and Security or any other department or agency.

The United States Office of Education should be headed by a National Board of Education composed of educators selected on a nonpolitical basis. My bill H. R. 8161, provides this procedure. It should not be made a subordinate agency to a politically appointed, politically responsible, and politically ambitious department head.

I believe that the Federal Government must be prepared to promote public education in the United States—but promotion must not mean control.

The Federal Government can aid through research and technical advisory services. The Federal Government can give financial aid to the States—but such assistance must not be accompanied by Federal control.

Plan No. 27, in my opinion, means Federal control of education and health and heads us down the road of more controls and socialized medicine as well as Federal control of education—America wants no dose of this prescription.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. RICH].

(Mr. RICH asked and was given permission to revise and extend his remarks.)

Mr. RICH. Mr. Chairman, I am opposed to this plan No. 27. After reading the resolution adopted by the American Medical Association I think it answers the question more fully than I could in my own words as to why I oppose this plan.

I will enumerate several of the reasons:

First. This plan is in direct conflict with the recommendations of the Hoover Commission.

Second. It renders more difficult or impossible the creation of a Department of Health at any future time.

Third. It creates a triple holding company, a conglomerate Department of Health, Education, and Security, most of whose work is not related.

Fourth. It will not be a reorganization of administration, but a renaming of an agency admittedly faulty in set-up.

Fifth. It will point toward eventual Federal domination of our voluntary hospital system.

Sixth. It will create a master organization ready and anxious to take over administration of a national compulsory health-insurance program.

Seventh. It will place administration of the Nation's health activities in the

hands of a politically appointed secretary with no professional qualifications.

Eighth. It will place direct operation of medical programs in the hands of a surgeon-general who need not be a doctor of medicine.

Ninth. It does not promote economy.

I think it is about time that we began to take stock of just where we stand. It amazed me very much to hear the majority leader [Mr. McCORMACK] say that we are in a better position now than we have ever been before. If I thought that I would admit it, because I like the majority leader personally, but I do not like the things that he stands for. He is too socialistic for me. I am glad that he applauded me on that, because that shows that he thinks I believe thoroughly the things that I say. I am not here trying to criticize somebody, and I do not want to approve things they do if I do not believe in them. I am not two-faced.

I want to ask the majority leader if he thinks we are in such a good position today with the great national deficit that we created this last year, and which this administration has been in the habit of doing for the past 18 years.

A RECORD OF DEFICIT SPENDING, 1931–50

In 18 out of the past 20 fiscal years, the Federal Government has operated at a deficit. In 2 years, 1947 and 1948 the surpluses amounted to $9,173,257,504.

The public debt which was $16,185,308,299, or $131.38 per capita at the close of the fiscal year 1930, has risen to $257,357,352,351 or $1,704.50 per capita. The details of the deficits by years are shown in the table following:

TABLE 1.—*Surplus or deficits of the Federal Government by fiscal years 1931 through 1950. Compiled from official Treasury statements*

Fiscal year:	*Budgetary surplus or deficit (—)*
1931	—$461,877,080
1932	—2,735,289,708
1933	—2,601,652,085
1934	—3,629,631,943
1935	—2,791,052,085
1936	—4,424,549,230
1937	—2,777,420,714
1938	—1,176,616,598
1939	—3,862,158,040
1940	—3,918,019,161
1941	—6,159,272,358
1942	—21,490,242,358
1943	—57,420,430,365
1944	—51,423,392,541
1945	—53,940,916,126
1946	—20,676,170,609
1947	753,787,660
1948	8,419,469,844
1949	—1,811,440,047
1950	—3,122,102,357
Gross deficit	—244,422,233,802
Less 1947–48 surplus	9,173,257,504
Net deficit (20 years)	—235,248,976,298

Two years ago, 1947–48, we had a Republican Congress, and, of course, we did not go into the red, but in all the other years we did go into the red.

Mr. McCORMACK. Will the gentleman yield? The gentleman asked me a question. Is he going to yield?

Mr. RICH. Yes; I yield.

Mr. McCORMACK. All right.

Mr. RICH. Make it short and snappy.

Mr. McCORMACK. Oh, now wait a while. Last year the deficit was due to the Republican Eightieth Congress passing the iniquitous tax bill.

Mr. RICH. Oh, that is a lot of bull that the gentleman has been putting out around here. A bulldozer trying to smooth over the rough and tough spots.

Mr. McCORMACK. Oh, you do not like to hear it? You do not want to hear it? Wait a little bit. I am not through.

Mr. RICH. Well, you are through.

Mr. McCORMACK. In other words, you are quitting?

Mr. RICH. I do not yield any further.

The CHAIRMAN. The gentleman refuses to yield.

Mr. RICH. I refuse to yield.

Now, if the gentleman thinks we are in good shape with this situation we have in Korea, where the President of the United States says we are not in war, yet he sends the Army over there, and he is doing everything he can to get us into a fight. That happened in 1919, when the Democratic administration got us into war; and it happened in 1941, when the Democratic administration got us into war. You watch out if we do not have an administration now that will get us into war again. The majority leader is leading them right on as fast as he can.

Mr. O'TOOLE. Mr. Chairman, will the gentleman yield?

Mr. RICH. No; I do not yield. It is about time that we took an inventory here. This thing is so terrribly bad that the American people will wake up in a short time and they will find out that instead of having a country where we have our freedom and our liberty and independence, we will have a land of socialism and a land of dictatorship.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. RICH] has expired.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska, Dr. MILLER.

Mr. MILLER of Nebraska. Mr. Chairman, I think the majority of the Members of Congress want to go along with the recommendations made by the Hoover Commission and by the citizens' committee. I support the Hoover Commission report in order to get some sense brought into the Federal Government and its agencies. I have studied very carefully the proposed measure for putting the Department of Health, Welfare, and Social Security under the Federal Administrator. Four years ago I introduced legislation to create a Cabinet office to handle all health problems.

As I look over the pending measure it does not conform to the recommendations made by the Hoover Commission. I am sure the gentlemen who want this legislation cannot point out where it conforms to the recommendations made by the Hoover Commission.

I do not believe that the hearings will show that anyone from the citizens' committee came before you in favor of the legislation, because it does not conform to the recommendations made by the Hoover Commission. If it did I would like to support it. I am concerned as to whether it will save money, whether we will get a better organization by adopting such legislation. I am convinced that we would not; I am convinced that we would have probably three organizations going in separate ways. It would bring more confusion. It would not save money; it would not be satisfactory to the taxpayer or even to the departments after they were formed. It has been suggested that one Oscar Ewing would head the new Department.

I just read on the ticker tape that Oscar Ewing will probably be a candidate for governor of New York. We might get him out of our hair in Congress if he would do that. I hate to wish him onto New York, but perhaps it would be a more fertile field for him there. I think really that a lot of the opposition coming to this legislation at the present time is due to the fact that a man by the name of Ewing would probably head the plan.

Mr. KEATING. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Nebraska. I yield.

Mr. KEATING. I rise to object to wishing him off on us in New York.

Mr. MILLER of Nebraska. The ticker tape might be wrong; I noticed one man by the name of Flynn had a conference with the President, and the matter was discussed and the problem was to get a strong ticket in New York. I would prefer him in New York than as a Cabinet member. He is an arch proponent of socialized medicine. He would have the Government do your thinking and planning.

I notice the majority leader was quite disturbed about his stand on socialized medicine. I think that in his heart he is not for socialized medicine; I am sure that he would not stand up here and support it. He asked: What is socialized medicine? I am sure there is not a Member here who does not know what socialized medicine is, and I am sure that he would not bring up that bill called socialized medicine and seriously urge its passage.

Mr. HOFFMAN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Nebraska. I yield.

Mr. HOFFMAN of Michigan. Does the gentleman from Nebraska see the gentleman from Massachusetts on the floor now while the gentleman from Nebraska is asking that question?

Mr. MILLER of Nebraska. Yes; I see him in his seat; he seems discouraged. The Members should relax. Some of the Members got quite excited; I notice the majority leader spoke very loudly and vehemently; I notice that even the chairman of this committee was quite excited. That really is not good for one's blood pressure, since we are dealing with health problems.

I also realize that the question of socialized medicine is high on the agenda on the Democratic platform as is the Brannan farm plan and the repeal of the Taft-Hartley law. I suppose they will be brought up between now and the first of August. Those things ought to take

preference over the war—or is it a war? It is a police action—a mere police action according to the President—but soldiers are dying in Korea. It seems to me that Congress ought to clear the decks for action and forget about some of these socialistic schemes contained in this plan. We ought to forget about socialized medicine, slum clearance, and other socialistic terms and clear the deck for action, because we are facing some serious times. This resolution should be adopted and the plan rejected. It is just no good.

(Mr. MILLER of Nebraska asked and was given permission to revise and extend his remarks.)

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Kansas [Mr. REES].

Mr. REES. Mr. Chairman, Reorganization Plan No. 27, submitted by the President, is not in line with the recommendations of the Hoover Commission. In fact, it is in direct conflict with these recommendations.

For example, the Hoover Commission recommended that the Bureau of Employees' Compensation, Employees' Compensation Appeals Board, and the Bureau of Employment Security be transferred to the Department of Labor, and not be a part of this proposed new agency. But here you have them under Health, Education, and Security. That is only a part of it.

This recommendation does not create a Department of Health, but provides in substance that all of the departments of the present Federal Security Agency be given a rank of Cabinet department.

Under the proposal there would be little change in the internal organization of the present establishment. There would be no substantial economies achieved. The approval of this plan will not be a saving to the taxpayers of this country. On the contrary, it will raise the cost of operating the functions now administered by the Federal Security Agency.

The mixture of Government functions dealing with health, education, employment compensation, and security will not result in a reorganization of the Administration.

It is not merely in conflict with recommendations of the Hoover Commission program, but would make the situation more difficult to provide for a real Department of Health.

This plan ignores the fact that health, a direct concern of everyone, is entitled to equal governmental status with labor, or with commerce, or agriculture, or with other activities which directly concern not only a portion of the population, but have separate Cabinet departments. Here is the most important activity affecting all people directly. We should follow the Hoover Commission recommendations and provide for a United Medical Administration that would include the present Health Service. That is the recommendation of the Hoover Commission.

Under the proposal submitted, you would have a sort of triple holding company, a conglomeration of a Department of Health, of Education, and of Security, most of whose work is underrated. This bill would not be reorganization but just renaming an agency already established.

There appears to be only two real purposes that the President and his advisers have in mind in asking for the approval of this plan. First, the plan will create a Federal department whose main operation will dominate medical education, the hospital system of the United States, and take over the administration of a national compulsory health insurance program.

The second purpose of this measure is to raise the salary of the present Administrator, Oscar Ewing, to Cabinet rank. Under this unsound proposal, his salary will be increased from $17,500 to $22,500. The salary of the Under Secretary will also be increased, and there will be three new positions of Assistant Secretary with annual salaries of $15,000 each.

This kind of legislation would place the health activities of this country in the hands of a politically appointed Secretary with no professional qualifications. A Department of Health should be headed by a person highly qualified and trained in his profession. This proposal would not in the slightest degree improve the health and welfare of the American people. As stated in the first place, it would simply give the present Federal Security Administrator Cabinet status and nothing more.

I should also add that the present Federal Security Agency does not have an outstanding record of achievement in dealing with the problems assigned to its jurisdiction.

Mr. Chairman, no one is more concerned about advancements in the field of health, education, and security than I. In order for the American people to remain strong in this present international crisis, it is essential that adequate measures be adopted to protect their health, to assure equal and extended educational facilities and to make reasonable advances in the field of social security. However, the adoption of plan No. 27 will not achieve these ends. As a matter of fact, the creation of this heterogeneous, disassociated and complicated hybrid of a department of Government will actually retard our achievements in this direction.

Mr. Chairman, I am disappointed and surprised with regard to statements that have been made by Members who have preceded me in their criticism of men and women engaged in the medical profession.

I realize, like other professions, it has its faults. I just cannot believe the membership of this House would intentionally support legislation that would give opportunity for the socialization of the medical profession or any other profession. It is disappointing to find men in high places in the Government who would use their influence in that direction.

Before I close this discussion, I would like to call your attention to a report of a subcommittee of the Post Office and Civil Service Committee of the House, as a result of an investigation made by that committee.

I want to pay tribute especially to the Honorable JOHN BELL WILLIAMS, of Mississippi for his fine leadership in bringing that report to the attention of the House.

The report is No. 2457, and among other things, calls attention to an agency with 34,000 employees, marked with overstaffing and with lack of fixed responsibility and faulty budget structures. The report is not a criticism against the employees of the agency, but of the manner in which it is managed.

Attention is also called to the fact that there is no clear line of responsibility and authority in the agency, and that during the 10-year period from 1940 to 1950 the number of employees increased by 52 percent, while at the same time employees working in personnel offices increased 180 percent. In other words, the total number of personnel employees serving other staff members increased three times. Mr. WILLIAMS also calls attention to the amount of money, the energy and the number of people who are used to propagandize the agency instead of attending to the business that is assigned to the agency. A reading of this report does not recommend the approval of this plan.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

(Mr. HOFFMAN of Michigan asked and was given permission to revise and extend his remarks.)

PLAN NO. 27

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield myself 10 minutes.

Mr. JENSEN. Mr. Chairman, will the gentleman yield?

Mr. HOFFMAN of Michigan. I yield to the gentleman from Iowa.

Mr. JENSEN. Is it not a fact that the American Legion, the Veterans of Foreign Wars, in fact, all of the legitimate veterans' organizations are opposed to this plan No. 27?

Mr. HOFFMAN of Michigan. That is my understanding.

Mr. Chairman, Reorganization Plan No. 27 of 1950 would elevate the present Federal Security Agency to the rank of a Cabinet department. Thereby, the prestige and power of the Agency which has been in the forefront of the movement for socialistic welfare schemes would be enhanced. There would be little change in the internal organization of the present establishment. No substantial economies would be achieved. The plan does not conform with recommendations of the Commission on Organization of the executive branch of the Government. It is not merely in conflict with those recommendations but would make it increasingly difficult to achieve important parts of the Hoover Commission program.

The plan should be rejected through adoption by the House of Representatives of House Resolution 647.

PROVISIONS OF PLAN

Reorganization Plan No. 27, submitted by President Truman on May 31, 1950, would establish a Department of Health, Education, and Security. All agencies of the Federal Security Agency, together with their respective functions, records, property, personnel, and unexpended balances of appropriations, would be transferred to the new Department.

The Department would be headed by a Secretary of Health, Education, and Security, to be appointed by the President with the consent of the Senate and to whom the functions of the present Federal Security Administrator would be transferred. Provision also is made for an Under Secretary and an Assistant Secretary appointed by the President with the consent of the Senate and an Administrative Assistant Secretary appointed, with the approval of the President, by the Secretary under the classified civil service.

Three major bureaus in the new Department would correspond to the three major units of the present Federal Security Agency. The Public Health Service would be headed by the Surgeon General. The Office of Education by the Commissioner of Education, and the Social Security Administration by the Commissioner of Social Security. The three officials would be appointed by the President with the consent of the Senate.

The present autonomous powers of the Public Health Service and the Office of Education would be preserved. Powers of the Social Security Administration, now vested in the Federal Security Agency, would continue to be lodged in the head of the Department.

The plan differs from Reorganization Plan No. 1 of 1949, which was rejected by the Senate, chiefly in a change of the name of the new Department from Department of Welfare to Department of Health, Education, and Security and in retention of autonomous powers of the Public Health Service and the Office of Education.

DIFFERENCES FROM HOOVER COMMISSION PROGRAM

The only point at which Reorganization Plan No. 27 of 1950 touches the program of the Hoover Commission is in its creation of a new department. The proposed new department, however, would not be that which was recommended by the Hoover Commission.

A major point of difference from the Hoover Commission program is the inclusion of health functions in a department with education and social welfare.

Another important point of difference is in the lodging in the new Department of the Public Health Service which under the Hoover Commission program would be made a part of an independent United Medical Administration.

Still another vital point of difference is the granting of autonomous powers to bureaus within a department.

The plan for a new department would fall short of the recommendations of the Hoover Commission for a new department in several other respects.

Mr. Robert L. L. McCormick, research director of the Citizens Committee for the Hoover Report, whose membership is representative of a strong public sentiment for adoption of the Hoover Commission recommendations, testified that Reorganization Plan No. 24 was so much at variance with the Hoover Commission program that his committee could not give its support.

HOOVER COMMISSION RECOMMENDATION FOR NEW DEPARTMENT

The Hoover Commission in a report on social security, education, and Indian affairs recommended a new department to administer functions dealt with in the report. The report dealt with welfare, social security, and education activities but not with health functions. The latter were covered in a separate report on medical activities.

The effect of the recommendation was to propose the elevation of the education and security activities of the present Federal Security Agency to a departmental status. The health functions, however, would be divorced from the present grouping and made a part of the proposed United Medical Administration.

In discussing its recommendation for a new department dealing with education and security, the Hoover Commission said:

American concern over the problems of education, health, relief of the needy, aid to the handicapped, and assistance in unemployment and old age is as old as the Republic. Responsibilities in these fields were initially considered to be those of State and local governments.

With the growth of the Nation, these problems have become wider than local and State boundaries. There is a common interest of all citizens in the education of every citizen. There is a common interest in the advancement of science and in the common dangers from disease. There are obligations to veterans. The problems of unemployment extend beyond State borders. There is generally a recognition of the practical problems which lie in our obligation as "our brother's keeper."

All these circumstances have contributed to bring these problems more and more to the Federal level. In dealing with these matters, except in the case of veterans, the Federal Government has usually sought to preserve the responsibilities of local government and their agencies of administration in effecting the national purpose.

It is not the province of this Commission to pass upon the policies that have evolved in these matters. We are concerned with the efficient and economical organization of the Federal agencies as we find them. The organizational problems of education, health, medical care, assistance to the handicapped and aged, and aid to the unemployed permeate every department of the Federal Government.

There is no perfect organizational arrangement for these functions. Many of them must be performed by specialized agencies like the Veterans' Administration, the Armed Forces, and the Labor Department. As the problems grow, specialization in organization will inevitably grow.

In our report on Medical Services, we have recommended a separate United Medical Administration, reporting directly to the President. That agency would embrace the major hospitalization, medical research, and public health activities of the Government and, by its creation, bring about better medical care, development of medical staff, research, and protection of public health, together with large economies in administration.

In our report on the Labor Department, we recommended the return of several agencies now in the Federal Security Agency to that Department.

There remain, however, certain most important bureaus or agencies relating to education and security which must be organized into a workable department. They are now, with one exception—the Bureau of Indian Affairs—in the Federal Security Agency.

The size of these agencies, after making the changes we have outlined, is somewhat indicated by the fact that they embrace about 20,000 employees. The administrative expenditures would be roughly $50,000,000. The grants-in-aid to be distributed would approximate $800,000,000. For the calendar year 1948, the collections of old-age and survivors insurance approximated $1,688,000,000, and disbursements $550,000,000. The accumulated funds on August 31, 1948, were $10,388,000,000.

While we discuss the educational problems at greater length later, it may be said here that it has long been suggested that the educational activities of the Federal Government should be given independent or Cabinet status. However, the Federal Government is not engaged in direct educational activities except in a small way in the case of Howard University. Its function is that of stimulating educational advancement by research, issuing publications, and making grants-in-aid to the States. The administrative staff required is less than 500 persons.

We believe that the functions, including education, which we propose to assign to this Department have such an important relationship to the formation of the domestic policies of the Government that the person in charge of the functions should be a member of the President's Cabinet.

PROPOSAL FOR UNITED MEDICAL ADMINISTRATION

The Hoover Commission in its report on medical activities recommended establishment of a United Medical Administration into which would be consolidated most of the large-scale activities of the Federal Government in the fields of medical care, medical research, and public health. The purpose was stated to be to eliminate overlap, waste, and inefficiency.

The objectives were stated to be to provide better medical care for the beneficiaries of the Federal Government's medical programs, to create a better foundation for training and medical service in the Federal agencies, to reduce the drain of doctors away from private practice, to provide better organization for medical research, and to promote a better state of medical preparedness for war.

The Public Health Service, including its hospitals and functions, facilities, and personnel, would be transferred to the new agency from the present Federal Security Agency. There would also be included in the United Medical Administration the general hospitals of the Armed Forces in the continental United States, the hospital functions of the Veterans' Administration, and the nonmilitary hospitals in the Canal Zone.

The Hoover Commission in discusisng advantages of its plan said:

Only the creation of a new United Medical Administration can remedy the weakness of the present organization and give the leadership, direction, and planning urgently needed. To it would be transferred the Government's major services in the field of medical care, public health, and medical research.

The Nation's vast medical services, which we have noted lack any central plan of operation, require unified responsibility. The Government must have a central plan if waste and inefficiency are to be avoided. The

advantages of unification of Federal medical services include the following:

(a) The general standard of Federal medical care would be improved.

(b) There would be a central supervision of the major Federal medical care, public health, and medical research activities. Unified responsibility is the key to good management. The President, the Congress, and the public could look to one man for results.

(c) Construction costs could be standardized and reduced.

(d) Federal hospitals could be utilized to the fullest extent by eliminating present distinctions as to the particular types of beneficiaries for which each can care. After all, a patient is a patient whether he is a veteran, a merchant seaman, or in the Army, Navy, or Air Force.

(e) The medical manpower at the call of the Federal Government could be used to the fullest extent, and present deficits in skilled personnel could be greatly reduced.

(f) The need for any draft of medical manpower in time of peace would be greatly lessened.

(g) The cost of health and medical services would be clearly identified and known to Congress.

(h) The facilities of private hospitals and the skills of physicians in private life and in the universities could be utilized far more effectively than they are now.

SHORTCOMINGS OF PLAN NO. 27

The excerpts from reports of the Hoover Commission showing its reasoning in making a recommendation for creation of a new department dealing with education and security and in proposing a merger of medical activities in an independent agency are pertinent as indicating the shortcomings of Reoganization Plan No. 27.

The proposed plan does nothing at all toward achievement of the objectives of the Hoover Commission in these matters.

Proponents of the plan claim that it does not prejudice future action by Congress toward approval of Hoover Commission recommendations, specifically the creation of a proposed United Medical Administration.

It is significant, however, that Mr. Oscar R. Ewing, Federal Security Administrator, in testifying for the plan, took occasion to express his opposition to the United Medical Administration. Obviously, the increased prestige attaching to the proposed new department would give his views, if he were named to head the new department, greater weight.

At least one witness, in response to a question from a member of the committee, admitted that his support of the President's plan was very largely influenced by the belief that it would mean rejection of the United Medical Administration proposal.

Whether or not this committee and the Congress shall approve legislation creating a United Medical Administration, no step should be taken which would impede such a program unless the evidence of need of the pending reorganization plan is indisputable.

Testimony during the hearings on Reorganization Plan No. 27 has made it clear that support for it comes from groups desirous of building up the power and prestige of the present Federal Security Agency, especially with respect to its social-welfare functions.

It was made clear that some groups concerned with the Public Health Service and the Office of Education were skeptical of any advantages of the plan.

Opposition was expressed by representatives of both the American Medical Association and the American Dental Association. Both of those groups have long advocated creation of a separate Department of Health. Their spokesmen were fearful of subordination of health activities in the proposed Department of Health, Education, and Security. Similarly, a witness for the American Association of University Women objected to the plan, preferring a grouping of educational activities under an independent board. These professional groups all were distrustful of lay administrators who would have Cabinet rank above the professional experts in immediate charge of health or educational functions.

AUTONOMOUS BUREAUS

The reorganization plan by retaining the autonomous character of the Public Health Service and the Office of Education seeks to avoid the opposition of some of those who objected to plan No. 1 of 1949 for a Department of Welfare.

It is true that the status of the powers of these two agencies in a new department would be unchanged from what they are in the Federal Security Agency. The freezing of the powers in a department of higher rank, however, would make it doubly difficult to deal with the situation hereafter.

The Hoover Commission laid stress upon the undesirability of autonomous powers by bureaus within a department. Recommendation No. 14 in its report on General Management of the Executive Branch was that the heads of departments, under the President, should have full responsibility for the conduct of their departments, that there should be a clear line of authority reaching down through every step of the organization and that no subordinate should have authority independent from that of his superior.

The Commission's findings on this subject were as follows:

> The line of command and supervision from the President down through his department heads to every employee, and the line of responsibility from each employee of the executive branch up to the President, has been weakened, or actually broken, in many places and in many ways.
>
> This line of responsibility still exists in constitutional theory, but it has been worn away by administrative practices, by political pressures, and by detailed statutory provisions.

SOCIALISTIC TENDENCIES

The present Federal Security Agency has actively promoted socialized medicine and other proposals infringing upon American principles of government.

Undoubtedly the influence of this Agency with the Congress and with the public would be increased by its elevation to Cabinet rank.

The trend toward socialism might be furthered by approval of the reorganization plan.

The Chamber of Commerce of the United States, discussing the plan for compulsory health insurance, of which Federal Security Administrator Ewing has been the leading advocate, said:

> A socialized medicine system would be a big step toward socialism in general. A huge new bureaucracy would be created, and there would be widespread destruction of our voluntary institutions. Not only doctors, dentists, and nurses would be paid—and controlled—by the Government, but countless typists, bookkeepers, and investigators would be required.
>
> The new army of Government workers might number a half million persons or more. It could wield dangerous political power.

The assumption has prevailed that Mr. Ewing would be the President's selection for Secretary of Health, Education, and Security, in the event of approval of the present reorganization plan. Undoubtedly, he would redouble his efforts for socialized medicine.

CONCLUSION

Reorganization Plan No. 27 is the answer to the bureaucrat's prayer. It provides increased power with which to extend the activities, influence, and payrolls of existing agencies, which every bureaucrat seeks. That is virtually all it does.

The plan in scarcely any particular follows any recommendation of the Hoover Commission. Its stated objectives are not those of the Hoover Commission, more efficient organization and greater economy, but rather increased prestige and influence for particular activities. The plan departs from and is in actual conflict with the Hoover Commission program.

In the absence of conclusive evidence to show the need for elevation of the present Federal Security Agency to Cabinet rank, the House of Representatives should reject the plan by approval of House Resolution 647.

The views thus expressed are not only my views but the opinions of all Republican members of the committee as well, and, I am certain, of some Democratic members of the committee.

The gentleman from Massachusetts [Mr. McCORMACK] stated three or four times that he was in favor of progress. Who is not? But what kind of progress—I do not favor progress toward ruin—which is what his party has been giving the Nation. We can all recall that after World War I the world was in a situation which gave every country involved in it a depression. If memory serves correctly, the candidate for President on the Democratic ticket then had an economy program, a platform which promised that he was going to cut Federal expenditures 25 percent that he would cut Federal employment 25 percent. The people of this country, realizing that that was the only sound and permanent way out of their then troubles, elected Mr. Roosevelt President by an overwhelming majority. What happened? Although he had promised that we would not repudiate the gold standard, within 6 months we went off the gold standard, devalued every Government bond, and within 6 months we began a course of action which has given us what I assume the gentleman from Massachusetts [Mr. McCORMACK] would call progress. And what has it been? A

program of deficit spending. We have had bankruptcy out of it. We have had a foreign policy, if you can call it a policy, which gave us World War II, which has given us world war III. I do not go along with those who say that we are not now in war. It is my understanding that we have not had a declaration of peace or a declaration ending the President's emergency war powers. As a matter of law, we are still at war, still in World War II, and if we are not in an actual fighting war today in Korea, then I know not the meaning of that term. If that is progress, if the history of our country under the Democratic Party, taken over lock, stock, and barrel by the New Dealers and the Fair Dealers, and the Pendergast gang, is a history of progress, then my training has all been wrong. I want none of the gentleman's brand of progress, either for my country or for myself.

The gentleman from Illinois, the chairman of our committee [Mr. DAWSON], a very earnest gentleman, in a very vigorous and eloquent way stated that he was in favor of advancing the interests of human beings.

Everyone with a heart, a mind, and a consciousness of his own well-being is not only willing but is anxious that all other people should prosper, be happy, free, and independent. I ask the gentleman, where in all the wide, wide world has either the individual or the people as a whole received greater consideration, had more of the things we all consider good for us or the things we all desire not only in the way of freedom and liberty, but of material prosperity? Where is there a group of people that have made the progress we have made?

Mr. DAWSON. Mr. Chairman, will the gentleman yield?

Mr. HOFFMAN of Michigan. I yield to the gentleman from Illinois.

Mr. DAWSON. After World War I the country was in pretty good condition. The people had a few successive Republican administrations, and we had the greatest depression in the richest country the world has ever seen. Banks failed, people were standing in soup lines and bread lines, and the Nation turned to the Democratic Party. The Democratic Party has been in power ever since because of the fact that it was concerned with human values and not with property values.

Mr. HOFFMAN of Michigan. True, we had a depression, and it came because of the war and destruction a Democratic administration under Woodrow Wilson gave us. But if what the gentleman said was all true, which it is not, of course, and which every student of world affairs knows is not an accurate statement of the situation, nevertheless the fact remains that, having been in power, except for two brief years when the Republicans had the House, having been in power since 1933, where are we today? I will not repeat at length; sufficient to say we have had deficit spending, an ever-increasing debt, regimentation, loss of personal freedom, and war—cruel war which wasted our substance, took the lives of our youth, and today men are fighting in far away Korea. Is that progress?

So much for that. Here we are today with this present war. Then the gentleman went on—and I will be very brief because I want one of the members of the Hoover Commission [Mr. BROWN of Ohio] to tell you just how much this plan does not follow the Hoover Commission recommendations—I want to pause here just one moment to pay tribute to the President of the United States who, because of his political sagacity, not only his ability through the distribution of political favors but through his ability to influence legislation, has been able to purchase the votes of first this group and then the other, and so continue himself in power—that is another kind of progress I want none of.

The gentleman from Illinois [Mr. DAWSON] said, "Who opposes this legislation?" And then he said, "The doctors."

Now, I am not, I regret to say, an extremely religious man. When the sun is shining, when everything is going all right, when I have no aches and pains, money in my pocket, I do not really get down on my knees two or three times a day and call on the Lord for help. I just forget the Lord in the prosperous, happy days, as many individuals and nations have forgotten in the past. But when I have a terrific pain around the region of the heart, when I have something in my stomach, perhaps, or anywhere else, that feels like a hot stone or when it thunders and lightnings and the sky is overcast and the winds roar and the windows rattle and the walls shake, what do I do? I do like the physically big, strong men in this House do, I get frightened, and I call on the Lord to protect me and carry me through.

So it is sometimes—and I mean no sacrilege—that I assume that even my friend from Illinois [Mr. DAWSON], if he gets a pain somewhere, if his food disagrees with him, if he thinks he has been poisoned by something he ate, I venture to suggest that he will call on one of these greedy, dog-in-the-manger, despised doctors to whom he referred for a little physic.

What is the difference between his plan of socialized medicine—I am sorry the gentleman from Massachusetts is not here. I cannot define socialized medicine for him the way he would like to have me do it. Apparently in spite of all the argument, in spite of all the things that have been said and written, the gentleman from Massachusetts [Mr. MCCORMACK] does not want to recognize and give a definition of socialized medicine, because when I asked him a very short, simple question, "Are you in favor of or opposed to socialized medicine," what did he say? He comes back at me and says, "What do you mean by socialized medicine?" I am sure he is more intelligent than I. I am sure he knows what I meant. What the people understand is meant by those words.

I wish the gentleman would not speak so disparagingly of the doctors. Knowing as I do, knowing that you, if you have an ache or a pain, are going to call on these doctors, and knowing, as you do know, that, having ill health in this country, people will need doctors, why seek to discredit them? What is the difference between their manner of practice and that proposed by the advocates of socialized medicine?

The only difference is that the doctors there will be under the control of a master politician. Some fellow who knows little of medical science will be telling the doctors what to give and when to give it. Keep on with socialized medicine, and if we should be so unfortunate as to get Dr. Ewing, you may be getting medicine from a veterinarian because you do not know whether they are going to pick that kind of a doctor—a horse doctor or somebody else, to treat your ills.

Mr. DAWSON. Mr. Chairman, will the gentleman yield?

Mr. HOFFMAN of Michigan. Yes; briefly.

Mr. DAWSON. Does the gentleman know about the provision in this plan which specifies that the head of the Health Bureau shall have certain professional qualifications?

Mr. HOFFMAN of Michigan. Oh, yes; I know about that, and I know that no man, no group, no legislative body, can write a law and have it interpreted and administered as it would desire. Experience has demonstrated that.

The Congress legislates but the bureaucrats interpret and administer.

Then—I will not say I was hurt—but our chairman—he is sincere, but I was grieved—I was grieved to hear the gentleman who is a champion of civil rights and who has done so much for the people of his race, from the well of this House make a talk against a group of our citizens. The gentleman from Illinois may in Chicago be acquainted with a different class of physicians than I know.

Mr. DAWSON. Will the gentleman yield?

Mr. HOFFMAN of Michigan. Yes.

Mr. DAWSON. The gentleman and others have harped upon the fact that I mentioned that illustration of a dog in the manger. The gentleman knows that I do appreciate doctors and appreciate their qualifications. This matter has nothing to do with those qualifications, but only with that attitude as I described it toward certain legislation. No man in this Chamber appreciates the trouble it takes to become a doctor and the long years that are put in in their practice, and the place of a doctor in the community. I have a brother who is a doctor. There is nothing in my remarks or in my thinking which is in disparagement of the profession as such, whether it be a doctor or a dentist or an educator; but so far as the procedures are concerned in opposition to this particular piece of legislation the illustration would aptly apply.

Mr. HOFFMAN of Michigan. I gather, then, from the gentleman's statement that he does not believe doctors, some of them at least, are honest and sincere and have the good of the people at heart, and when they prescribe and when they give of their time, they are giving not only for what they earn, but because they want to benefit humanity.

Does the gentleman agree with me on that?

Mr. DAWSON. I believe that each doctor in his practice and as an individual is honest in his efforts in treating his patients. But I believe as an organized body against this legislation they are against it for selfish reasons.

Mr. HOFFMAN of Michigan. The doctor I am talking about is the doctor who served in my community and in the communities of all you gentlemen who do not live in the cities—I know only the so-called country doctor, the old-fashioned doctor who gave years to acquire the knowledge of how to treat you when you were ill—the doctor of the old days, of the "horse and buggy" days, the days that you despise, when if the snows were too deep in our community for his sleigh he would wade through on snowshoes, and that is the way he got to you. The doctor who, you might say, gave of his very life's blood to administer to you when you were sick. And now to have doctors criticized—charged with opposing this legislation, solely because of selfishness is just too much for me—have their humanity questioned just because they oppose something which they think would not only perhaps injure them, but would injure the people of this country—to that I cannot subscribe—it smacks too much of class feeling.

I repeat—I am sorry the gentleman brought that up, but I am telling you it is not the doctors in my community that I am listening to—I am listening to the people and I venture the suggestion if you go through your own mail you will find that you have 10 letters or 20 or a 100 letters from the people who are not doctors to every one you have from a doctor, opposing this legislation—the people do not want it—they will not, in my opinion take it. We will be well admired if we follow these demands.

If we listen to our people this plan and the would-be little dictators who would invade your homes will be defeated.

Mr. DAWSON. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. LUCAS].

Mr. LUCAS. Mr. Chairman, I rise in favor of this resolution to reject this plan, because I have that same fear within my heart that the gentleman from Massachusetts, our distinguished majority leader, made light of a while ago, that same fear that we are placing in the hands of someone whom we do not trust the power that we do not want to have exercised. I cannot see that we should disregard all fear in considering legislation in this House, and throw all caution to the winds, simply because we do not believe in certain legislation. I think that fear is an honest thing, and I think we should take all precaution in every piece of legislation that comes before us. In our opposition to this legislation, based on reasonable fear, we certainly have grounds to oppose it.

I am going to take as my text in the few remarks I shall make a statement made by our chairman of the committee, the gentleman from Illinois [Mr. DAWSON], in his remarks in favor of this reorganization plan, when he said that this plan would carry the Federal Government's activities in health, education, and security "down into every home in the land." Yes. He said, "Let us vest this power in this new department to have health, education, and security reach down into every home in the land." Get this straight. Are we going to give Oscar Ewing the power under this resolution to reach down into every home in the land to control the health of the Nation? Are we going to give Oscar Ewing the power to reach down into every home in our land to control the thinking and education of our young? That is exactly what we are doing in giving Oscar Ewing that power. Remember this, the more power over education we place here in Washington, the less may be exercised by our local school boards.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. LUCAS. I yield.

Mr. HOLIFIELD. The gentleman wants to be fair, I know. He knows that this plan does not give Oscar Ewing one degree of authority more than he has at the present time. As far as the statutory functions of the Departments of Education, Health, and Social Security are concerned, they are retained in exactly their present function, so the gentelman's fears are groundless on that point.

Mr. LUCAS. Then, may I ask the gentleman why he wants this plan put into effect?

Mr. HOLIFIELD. I will not take your time to do that. I took quite a little time to explain my position.

Mr. LUCAS. If you do not want more power to be vested in the chief of this new department, then why do you want the plan put into effect? I think that it is plaintly apparent that it is for the purpose of giving more power to Oscar Ewing. I cannot believe that this is merely a step forward, as someone has said, when we are by this action giving more control over purely local activities to a man, man whom we evidently do not trust. I cannot follow such reasoning.

Further, if we are going to give the head of this agency the power to reach down into every home in the land, as the chairman of our committee has said, in our social security, and give Oscar Ewing control over that $13,000,000,000 which reposes in the Treasury to take care of our old people, are we not giving him more power than was intended when the Congress set up the social security law?

No. I do not want those powers to go down into every home in the land. I do not want the head of this bureau, whoever he may be, to have the power to go down into every home in the land and control this country and do that which we as representatives of the free citizens of this great Nation do not desire.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. DAWSON. Mr. Chairman, I yield such time as he may desire to the gentleman from California [Mr. SHELLEY].

Mr. SHELLEY. Mr. Chairman, Reorganization Plan No. 27 was designed to and does meet one of the most serious objections that was raised last year against the establishment of a Department of Welfare under Reorganization Plan No. 1. Under that plan the Secretary of Welfare would have been vested with the statutory functions of the Surgeon General including purely professional functions relating to the administration of the Public Health Service. The present reorganization plan is different and clearly safeguards the right of the Surgeon General to exercise all the functions which the Congress has conferred on him. The Secretary will have, as he should have, certain administrative authority over the whole department which should give him the opportunity to effect various over-all economies of operation—and thus increase the efficiency of the various programs. But he is not substituted for the Surgeon General in matters which are outside his competence, as a layman, to decide. This is equally true in regard to the Commissioners of Education and Social Security.

On the other hand, as a Cabinet officer he will establish a direct and continuing channel of communication between these professional fields and the President, and also the heads of the other executive departments. At present there is no such channel. For that reason alone, the establishment of this new department will be an important step forward in the direction which all sound and sensible thinking recognizes we should go.

Much of the misunderstanding of the proposed plan arises from alternative proposels: The first is the Hoover report's recommendation for a United Medical Administration; the second is the medical profession's insistence on a separate Department of Health with a professional man as Secretary of Health.

Nothing in this reorganization plan precludes later action if the Congress sees fit on either alternative proposal when and if the Congress decides to take such action. In his covering message the President said:

> The adoption of this plan will not in any way interfere with further adjustments in the functions of the New Department either by statutory or reorganization plan.

The Expenditures Committee urges plan No. 27 as the best possible way at present to meet the need.

To adopt either alternative measure would require much time and study and the reconciliation of many conflicting opinions. The present plan is offered as a simple, practical "here and now" solution—the most feasible way to give departmental status to the health functions of the Government. The Federal Security Agency is a going concern. Nothing essential is added or subtracted; Federal Security Agency becomes a department of government, coequal with the other departments and with direct representation in the Cabinet.

There are many positive advantages to proceeding on the proposed basis. It would improve and strengthen the health functions of the Public Health Service—giving it added administrative advantages while conserving its basic independence. It would maintain the equality of

the Public Health Service with the education and welfare functions of government. Even more to the point, it would preserve the close association with these other activities that is so vitally important. Health authorities recognize that, to be fully effective, medical research and programs for the prevention of disease must be worked out in conjunction with education and welfare programs. From the broadest point of view, all these programs have a single objective: the development and conservation of our human resources.

To attempt to work independently in any of these fields would be to weaken this needed joint effort—not only within the Federal Government but also in States and communities. Local health authorities are working in increasingly closer cooperation with public school authorities and welfare agencies. In this day-to-day activity they recognize there is no real line of separation—that one field of activity reinforces another.

This is the real reason why a separate Department of Health would not be a forward step. To remove the Public Health Service from its present close association with problems of education and security would be to seriously cripple its total effectiveness. A professional Secretary of Health, concerned with purely medical matters, would be very unlikely to have the broad understanding of social and economic problems which a Secretary of Health, Education, and Security should be expected to have. As a Cabinet officer, although functioning well, he would be limited to concentrating solely on matters in his own profession. No provisions for related programs in education and social security would be provided. He could not contribute the broad scope needed in Cabinet consultations.

The importance of giving departmental status to the Federal Security Agency now—through the simple and direct means offered by the President's proposal—cannot be overestimated. Over the past 15 years there has been a dramatic expansion in the services rendered by its Public Health Service. Before the Social Security Act was passed in 1935, the functions of its Public Health Service were confined largely to medical care of seamen and other groups, and to interstate and foreign quarantine services. Since 1935, in addition to the program of assistance to State public health services, Congress has urged development of a vital program of medical research through general health grants to universities and other institutions. Cancer, venereal disease, tuberculosis, mental disease, dental disease—one program after another has been added. All are showing concrete results. In addition, the Federal Security Agency administers a vitally important program of hospital construction sponsored by the Federal Government. And it is embarking on a much-needed program to control water pollution. All this is in addition to its day-to-day work of strengthening local public health services in the fields of sanitation and control of communicable diseases.

All these activities are directly related to the health of this Nation—and the health of this Nation is a matter of private concern. We must take every possible step to improve health conditions in this country. The proposal to create a Department of Health, Education, and Security offers the most immediate and practical way in which we can all work effectively toward this objective.

(Mr. SHELLEY asked and was given permission to revise and extend his remarks.)

Mr. DAWSON. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HOLIFIELD].

Mr. HOLIFIELD. Mr. Chairman, I hope the gentleman from Texas [Mr. LUCAS] is still in the Chamber, because on page 2, section 6 of the report at the bottom is the following quotation from the plan:

Provided, however, That nothing contained in this section shall be deemed to authorize the Secretary to transfer or remove from the control of the Surgeon General, the Commissioner of Education, or the Commissioner of Social Security any professional or substantive functions vested in them respectively under the provisions of this reorganization plan or of law hereafter enacted.

Mr. DAWSON. Mr. Chairman, I yield such time as he may desire to the gentleman from Mississippi [Mr. WILLIAMS].

[Mr. WILLIAMS addressed the Committee. His remarks will appear hereinafter in the Appendix.]

(Mr. WILLIAMS asked and was given permission to revise and extend his remarks.)

Mr. DAWSON. Mr. Chairman, I yield such time as he may desire to the gentleman from New York [Mr. TAURIELLO].

Mr. TAURIELLO. Mr. Chairman, it is vitally important that the President's Reorganization Plan No. 27 be permitted to become law. This plan gives departmental status to the present Federal Security Agency.

The real significance of the proposal lies in giving official recognition to the fact that the health, education, and social and economic security of our people are matters of supreme importance to the strength and well-being of this country. And they must, hereafter, be considered at the very top level, of direction in our Government.

This is quite different from saying merely that the Federal Security Agency has earned the right to enjoy the prestige of departmental status. The positive advantages which are derivable will extend far beyond such prestige considerations.

A Secretary of Health, Education, and Security would be able to function far more effectively in his job than can the Federal Security Administrator. As a Cabinet officer, he would have a close and continuing contact and interrelation with the President and other top officials of the executive branch. In the give and take of Cabinet discussion he would be able to better present the point of view of his Department and that of his professional associates in the Department who are responsive to the needs of the people in their respective fields. And he would, in turn, be in a better position to pass to his departmental associates the circumstances in the problems of the Nation-problems of economics, of labor, of agriculture, of international relations, and of military security, as brought out in Cabinet discussions by the top officials of the executive departments.

A Cabinet officer can also act as a spokesman for that vast army of men and women who, in State and local agencies and voluntary groups, are working in all the related fields of public welfare. There has never been an effective channel for presenting the special problems of these agencies and groups for top-level administration consideration. This plan would establish and furnish such a needed channel.

Of course, there are many educators who, understandably, would like to see a member of their own profession in the Cabinet as Secretary of Education. Many doctors would like to see a member of the medical profession as Secretary of Health. And I do not doubt that many welfare workers would like to see a professional Secretary of Welfare. But to argue for separate representation in all these fields is to miss the essential point. To my mind, it would serve no useful purpose to have a Cabinet officer occupied solely with matters of education, or one concerned solely with matters of health, or one concerned solely with matters of social and economic security. In addition, it would add to the total of governmental agencies rather than reducing it as persistently urged by the Commission on Organization.

One of the objectives of this new Department will be to emphasize the relationship of all these problems as they touch the day-by-day lives of our people. The Federal Security Agency has already made sound progress in integrating and coordinating the work in these separate fields. I believe that a unified Department of Health and Education and Security which continues this progress will serve well the best interests of the Nation.

(Mr. TAURIELLO asked and was given permission to revise and extend his remarks.)

Mr. DAWSON. Mr. Chairman, I yield 4 minutes to the gentleman from Minnesota [Mr. BLATNIK].

Mr. BLATNIK. Mr. Chairman, I think the arguments both for and against this reorganization plan have been pretty well discussed by the committee. It is clear that the opponents of this Reorganization Plan No. 27 have gone to great lengths to confuse the issue and ignore its merits.

This is not a policy issue; it creates no agency; it gives no new functions or powers to existing agencies; it is primarily coordinating in an effective administrative manner scattered agencies that deal with closely related subjects. This is a sound administrative move and I am supporting Reorganization Plan No. 27 and opposing this resolution to turn down this plan.

I support this plan for two reasons. In the first place, it will provide cabinet status to each of these three major

functions—health, education, and security—through one secretary and at the same time preserve and guarantee the identity of each function. In this way it gives recognition to the importance of these functions in our society without jeopardizing the separate existence of the Public Health Service, the Office of Education, and the Social Security Administration.

In the second place, this plan will integrate similar functions, coordinate these program activities, and produce greater administrative efficiency and economy of operation.

Mr. TAURIELLO. Mr. Chairman, will the gentleman yield?

Mr. BLATNIK. I yield.

Mr. TAURIELLO. I am as opposed as any other Member of this House to socialized medicine. Can the gentleman show me wherein in this plan there is any semblance of socialized medicine?

Mr. BLATNIK. That is entirely an extraneous issue which has been injected by those who have attempted to confuse this whole matter. There is not an iota of socialized medicine involved in this administrative reform.

Mr. Chairman, I yield back the balance of my time.

(Mr. BLATNIK asked and was given permission to revise and extend his remarks.)

Mr. HOFFMAN of Michigan. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HOFFMAN of Michigan. When the debate has been closed, the motion is then that the committee rise and report back to the House; that is the usual and customary motion and does not in any way affect the passage of the resolution itself.

The CHAIRMAN. That is voted on in the House.

Mr. HOFFMAN of Michigan. Do I also understand that those who oppose the plan should, when the resolution comes up in the House, vote "aye"?

The CHAIRMAN. In the House their vote would be "aye."

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana [Mr. HALLECK].

Mr. HALLECK. Mr. Chairman, it is quite obvious as this debate has progressed that a great many Members are concerned about the socialization of medicine, and on the defensive side there have been statements calculated to allay the fears of those who might have that concern in respect to this particular measure. For myself, let me say that I am against socialized medicine in any form in which it may be presented or in any guise under which it may masquerade. Also I am opposed to measures which seem to me to be leading us directly on the road to socialization of medicine.

I recognize, as I think everyone does, that we do not have as good medical attention in this country as we would like. We do not have as good schools as we would like. We do not have as many hospitals as we would like; we do not have as many good teachers as we would like, but we are striving always to improve ourselves in that regard. That is the American spirit. But socialization is not the course to pursue if we want to achieve those better goals.

Now, mark it well, your vote on this proposition is going to put you on one side or the other of this great issue of socialization of medicine. I do not think anyone can affirmatively deny that, although I have listened to these other statements.

I suppose it does not make too much difference, but the majority leader made a great point of the vote on the social security measure. I took occasion to get the RECORD out of that day in April 1935 when that measure was before us. As a freshman Member of this body I made a speech for that measure and supported it. There were only 33 votes against it, and I think half of those, as I look over the list and if my memory serves me correctly, were Democrats. So why that phony issue? It is as phony as to say today that everything is good in the country. Well, if it is, the credit cannot go to Mr. Truman and his program, because his program, including socialized medicine, has not been enacted by this Congress. For you folks who support that program to claim credit for anything good in the country today reminds me of the story of the fellow who said he had just saved a man's life. He shot at him and missed him.

The fact of the matter is that the Eightieth Congress cut the cost of government, balanced the budget, had something to apply on the national debt, reduced the people's taxes, brought some equity and fairness into labor-management relationships, and did a lot of other constructive and desirable things. What the Eightieth Congress did was so good that this Democratic Eighty-first Congress has not undone any of it. The good that started to flow from that fine action in the interest of the country is still with us today. So if things are good in the country, if you can forget that we are in a shooting war, if you can forget a lot of things like the $257,000,000,000 debt—forget all those things and say that the country is in good shape—well, the credit goes to those of us who dared to put the program of the Eightieth Congress into effect and those of us who have blocked repeal of that program and prevented the enactment of the radical, socialistic, reckless, ill-timed, and spendthrift proposals that have been sent up from the White House in this Democratic Eighty-first Congress.

Mr. Chairman, specifically on this issue before us today I have sat here and heard of lot of Members argue for this measure or that measure that has been turned down by the Congress in times gone by because it was stated it carried out a recommendation of the Hoover Commission. Time and again I have heard that argument. Yet here you are today arguing for a plan that flies right straight in the face of the Hoover Commission recommendations. In my opinion, you cannot blow hot and cold on this.

The gentleman from California [Mr. HOLIFIELD] stated that if what we do today turns out to be bad we can undo it tomorrow. In substance that is what the gentleman stated. He said we do not have the united medical administration in this program and if putting the health functions in this new department turns out to be bad we can come along with another measure. Then you seek to draw a phony proposition here as to the united medical administration and how we might vote on it. The fact of the matter is the President has not recommended adoption of the Hoover Commission recommendation in that regard.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield such time as he may desire to the gentleman from Illinois [Mr. VURSELL].

[Mr. VURSELL addressed the Committee. His remarks will appear hereafter in the Appendix.]

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield such time as he may desire to the gentleman from Ohio [Mr. JENKINS].

(Mr. JENKINS asked and was given permission to revise and extend his remarks.)

Mr. JENKINS. Mr. Chairman, I am unalterably opposed to socialized medicine. I think the doctors have done more for nothing than any of our professions. They have always been alert to every improvement that would be for the benefit of individual health and also for public health. Nobody can justify a wholesale indictment of the doctors of the Nation in my hearing without my making an objection.

A few days ago I was talking to a very learned individual who had thought this matter through and he advanced an idea that I had not thought much about. He brought out the fact that if we should adopt socialized medicine and an individual was placed under the care of a certain doctor, that then that man would be compelled to continue to stay with that doctor. In other words, if he would become dissatisfied with the doctor to whom he had been assigned, he could not stop going to that doctor until he got an assignment to another doctor from some clerk or secretary. In other words, the matter of assigning patients would be simply a routine matter to be taken care of by a clerk. And it is likely that the doctor to whom this man would like to go would not then be free to take him because this socialized medicine would operate in such a way that the individual would be compelled to stay where he had been assigned.

I maintain that it is part of the freedom of an American to be free to select his own doctor, especially if he has the money with which to pay the doctor. Likewise I maintain that it is the right of the doctor to accept whatever patients he wishes and not be compelled to work for the Government for socialized medicine which will in effect make all doctors employees of the Government. For instance, if a doctor were not permitted to select his own patients then it would not pay a man to prepare himself to be a specialist. If a man prepared himself to be a brain specialist, he would not want to be compelled to do work that would be entirely inconsistent with his specialty. Socialized medicine will in-

variably result in the medical profession lowering its standards of efficiency.

As to this whole program becoming a bureaucracy, I have had some very positive experience in this respect. When the gentleman from Massachusetts [Mr. McCORMACK] this afternoon implied that the social-security law was a law favored only by Democrats, his implication was entirely erroneous and unreasonable. I was a member of the Ways and Means Committee when the social security bill was passed. I spent 9 weeks with the other members of the committee in preparing that bill. I spent 2 weeks on the floor of the House when the bill was being debated, and I spoke on it at great length. I voted for the bill. Without boasting, I want to claim that I was in reality the author of what is known as section 10 of the law. That is the section that provides aid for the blind.

With reference to whether this may develop a bureaucracy that will control our every action, let me say that I had an experience under the present social security law that convinces me that socialized medicine could be used to favor the wishes and prejudices of a person who was inclined to arrogate power to himself. The first social security law passed provided that the Social Security Board in Washington could require certain exactions from the State authorities. I think that the Social Security Board should have some power to enforce some of the basic provisions of the social security law by the States, for instance they should have the right to enforce a uniformity of the residence qualification of an applicant for old-age pension. But the case I have in mind was a case in which Mr. Altmeyer, who was then and is yet connected with the Social Security Board, in a most arrogant and bureaucratic manner withheld from the State of Ohio $1,338,000 which was due the State of Ohio from the Federal Government as its part of the fund going to old-age pensioners. I shall not go into detail with reference to the situation except to say that because Ohio's Governor at that time, Mr. Davey, who was a Democrat, had quarreled with Mr. Harry Hopkins over some civil-service matters, Mr. Altmeyer acting for the Board withheld the payment of this large sum of $1,338,000, which should not have been withheld. It is likely that Governor Davey and Harry Hopkins were both wrong but the rights of the old-age pensioners in Ohio should not have been violated because of a personal disagreement between a couple of New Deal office holders.

After Mr. Altmeyer had made his ruling and withheld this large sum, I took steps to correct the matter by proper legislation and was successful in securing passage of this legislation in the House and in the Senate. But under pressure from Mr. Altmeyer, President Roosevelt vetoed the action of Congress and although Congress was overwhelmingly Democratic and New Dealish we came very near overriding the President's veto.

But the fact still remains that we were not able to override the President's veto and the State of Ohio was successfully robbed of this $1,338,000 and that this amount with interest is today a just obligation of the Federal Government to the State of Ohio. In other words, the power of an arrogant bureaucrat thwarted the wishes of Congress.

With a President who favors socialized medicine and with a Department Chief such as Oscar Ewing whose views and practices indicate he would go the limit if he had a chance, I am opposed to risking the liberties of our people and the health of our people in the hands of such a man, or for that matter in any other man.

I come back to where I started and say that I have the greatest confidence in the doctors of our country and I shall not vote for any legislation that would compel them to become employees of the Government, to be pushed around at will by some bureaucrat.

[Mr. GOLDEN addressed the Committee. His remarks will appear hereafter in the Appendix.]

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield such time as he may desire to the gentleman from Tennessee [Mr. JENNINGS].

(Mr. JENNINGS asked and was given permission to revise and extend his remarks.)

Mr. JENNINGS. Mr. Chairman, I am opposed to this plan and all the evils that will inevitably follow its adoption. The ultimate cost of this proposed socialization of medicine, surgery, and dentistry will pyramid into billions of dollars annually.

The cost in the health of our people may well become appalling.

The effect of the blow to the incentive and individual initiator that inspires men in the private practice of medicine, surgery and dentistry cannot be calculated.

The people of this country are not yet ready to give up the right to select their family doctor, surgeon, or dentist.

From my youth to this good hour, I have learned to trust the able and consecrated members of these great professions. I do not wish to swap them for a man who is under any manner of Government control.

Socialized medicine has miserably failed in Britain. Its failure would be more ghastly in free America. I shall vote against this plan.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield such time as he may desire to the gentleman from New York [Mr. KEATING].

(Mr. KEATING asked and was given permission to revise and extend his remarks.)

Mr. KEATING. Mr. Chairman, my opposition to this plan stems primarily from my unalterable opposition to socialized medicine. It represents a second effort by the President to raise the status of Mr. Oscar Ewing's job to the Cabinet level. His first try failed when Congress turned down the previous plan which he sent up here last year. Now we are confronted by this proposal, differing in minor details, but aimed at the same objective.

Those who favor the plan have been at great pains to point out in detail why they think it does not represent a step down the road toward socialism. I want no part of any plan which requires a labored argument to prove that it is not an effort on the part of Government officials to get control of the medical and dental professions and the education of our youth. If there is even a danger that the acceptance of this plan might further a trend toward socialism, I do not want to take a chance. I fear that such a step might be a tragedy.

Moreover, we have heard a lot of lip service paid to the Hoover Commission. We have been led to believe that the President supports the recommendations of that bipartisan group of devoted men who labored so long and faithfully to prepare suggestions for bringing about greater efficiency and economy in the operations of the Federal departments and agencies. Yet the President asks us to approve this plan which flies squarely in the face of these recommendations. The Hoover Commission recommended that health functions be kept entirely separate and apart from any department dealing with education and social welfare. They also were most emphatic that autonomous powers should not be granted to various bureaus within a Government department. Both of these principles, as well as other minor ones, are violated by this plan. The Citizens' Committee for the Hoover Report, drawn from all walks of life and a wide cross-section of our citizenry, appeared in opposition to the plan.

Nothing could be more important than the health of our citizens. Their health depends in large measure on specialized scientific knowledge. If there is to be a separate Department of Health, it should be headed by a medically trained administrator. The important function of health should not be subordinated to the unrelated problems of education and welfare. Fundamentally, there is no reason for the adoption of this plan, except the indefensible and indirect objective which does no credit to its authors.

I shall support the resolution to disapprove this plan and hope it commands the necessary constitutional majority.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield such time as he may desire to the gentleman from New York [Mr. RIEHLMAN].

(Mr. RIEHLMAN asked and was given permission to revise and extend his remarks.)

Mr. RIEHLMAN. Mr. Chairman, it is generally known, I believe, that I have consistently worked for constructive reorganization of the executive branch of the Government. Prior to submission of reorganization plans to the Congress by the President, I proposed legislation most of which was subsequently enacted consolidating several agencies of the Government now known as the General Services Administration.

By this time it must be apparent to most people that many of the reorganization plans thus far submitted by the President do not follow the recommendations of the Hoover Commission and do not provide for economy and efficiency in Government.

Reorganization Plan No. 27 of 1950 calls for the formation of a combined

"Health, Education, and Security Department," as an outgrowth and expansion of the present Federal Security Agency. The inner workings and expansionist claims of that Agency were fully aired and then clearly illustrated by the Committee on Post Office and Civil Service in its current report on overstaffing of executive agencies. This thoroughgoing analysis of the philosophy and practice of our present Federal Security Office produced a rather disturbing picture. The tabulations, diagrams, and appendices of that 48-page document on "overorganization" will illustrate the new dangers imminent in the enlargement, coordination, and intensification of functions which now lurk in the proposed giant department. It would be to the advantage of all Members of the House to read that report. The Administrator of Health, Education, and Security would undoubtedly endeavor to carry out the theories of Fair-Dealism with all its miracles and public cures. Its sponsor, Federal Security Administrator Ewing, must at one time have been inspired by the concept of holding companies, but now—no longer completely satisfied with that pattern—he seems to favor the doctrine of fascism. This proposed bundle of a combined "Health, Education, and Security Department" would impose on the American people an astounding piece of totalitarian legislation.

Far from being in conformity with the Hoover plan, the project of the new department calls for an interlocking of Federal controls of health, education, and social welfare. That move is, indeed, expressive of a distinct aspect of totalitarianism. It is contemplated to allow a Secretary of Health, Education, and Security to exercise a series of functions which from infancy up would reach into the lives of all age groups. For some time it has been quite obvious that the Federal Security Agency has on all occasions been active in the promotion of socialized proposals. These and related schemes of compulsory welfare systems have in a number of hearings been found to be infringing upon American principles of government. The proposed departmental supervision of such all-inclusive matters as those relating to health, education, and security would readily provide, among other things, an opportunity to launch an all-embracing compulsory health insurance plan—socialized medicine.

A number of sound critical opinions were offered by professional and private representatives—all of them fearful that the problems of health would be subordinated to all-inclusive rules likely to issue from the office of a Secretary of Health, Education, and Security. The Hoover Commission in its report on medical activities recommended a considered and judicious approach to the Federal concern in the problems of health—the establishment of an independent United Medical Administration. Therein would be consolidated most of the large-scale activities of the Federal Government in the fields of medical care, research, and public health. The development of these functions within a professional administrative system would be in accordance with the major purpose of the Hoover plan—that is, to eliminate overlapping, waste, and inefficiency.

This brings me to my final objection to the creation of an executive Department of Health, Education, and Security. The purpose of the Hoover Commission was to provide instruments for the achievement of broad and substantial economic principles and efficiency in Government. Mr. Ewing's statement before the House Committee on Expenditures in the Executive Departments on June 20—emphatic as it is in its enthusiasm for the new giant executive establishment—contains only two specific observations on economies and savings. It does not meet the essential tests of the Hoover report. That, again, was fully brought out by the appraisal of the proposal undertaken by the Citizens Committee for the Hoover Report in its desire for greater efficiency and economy in Government.

In conclusion, let me refer you to the introductory portion of the minority views as summarized in the committee report—House Report 2320, page 11. I am in full agreement with the criticism that the elevation of the Federal Security Administrator to Cabinet rank would enhance the prestige and power of an agency which has been in the forefront of the movement for socialistic projects. Furthermore, that no substantial economies or advantages would be achieved by the proposal, and that, generally speaking, Reorganization Plan No. 27 of 1950 would make it increasingly difficult to effectuate the important parts of the Hoover Commission recommendations.

Mr. HOFFMAN of Michigan. Mr. Chairman, I yield the balance of my time to the gentleman from Ohio [Mr. BROWN].

(Mr. BROWN of Ohio asked and was given permission to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Chairman, I have risen in the well of the House numerous times to speak in favor of the recommendations of the Hoover Commission and the reorganization plans submitted by the President under such recommendations and in line with them.

This House honored me at the time that the Hoover Commission was created through the unanimous action of the Congress, by naming me as a member of the Commission. And it is not a pleasant duty and responsibility that I feel has been placed upon me this afternoon, to rise here for the first time to oppose, actively, and by my voice and my vote, a plan for governmental reorganization, Reorganization Plan No. 27, which has been submitted to the Congress by the President of the United States under the provisions of the Reorganization Act of 1949, which I helped enact into law. Yet I feel compelled, ladies and gentlemen of the House, to oppose with all the vigor and ability at my command the President's Reorganization Plan No. 27 because it is not in line with the recommendations of the Hoover Commission.

In my studied opinion, the adoption of this plan will work a real hardship on the American people and will make more difficult, in the future, the proper reorganization of the executive branch of the Government.

We have heard a great deal of discussion today as to whether we have made progress or have not made progress under this administration or that administration. We have heard a great deal of talk about war, past and present, and about dogs in the manger, and this and that, none of which bears on the issue we have before us. We have heard some partisan speeches, too, but in my opinion this is not a partisan issue, and I am sorry that some partisanship has crept into the debate. We have a very simple and a most important question before us today. It is whether we are going to create a Department of Welfare constituted as recommended by the Hoover Commission, for good and sufficient reasons, or whether we are going to create a Department of Welfare made up according to the desires of President Truman and Oscar Ewing, and the others who have been favoring some far-reaching changes in the organic laws of our land.

Let me say, to the credit of the Hoover Commission, which was a bipartisan commission, as you all know, made up of six Democrats and six Republicans, six of whom were from private life and six from public life, that never once was there a division within the Commission on any question or issue, along party or political lines. Never once was there any division between civilians on the one hand and officials of the Government on the other.

In considering what should be done as to the creation of a Department of Public Welfare and what should be done in an effort to find solutions for the great social and security problems which confront the Nation, the Hoover Commission did not approach or consider the issues involved from a partisan or political standpoint. Our long studies of all of the various questions which came before us convinced the great majority of the Commission, 9 out of 12, I believe, that the Federal Security Agency, in which the Public Health Service is now located, was already overburdened, and that we should create a new agency, the United States Medical Administration, entirely separate from all other facets and divisions of social welfare, to cope with the important responsibilities of looking after health, hospitalization, and medical problems at the national level; also that we should have a new department of Cabinet status, probably to be called the Department of Welfare, to consist of Indian Affairs, Council of Federal and State Relations, Social Security—and I want to remind you that this House last October passed a new social-security bill that will place greatly increased responsibility upon the head of that agency of Government—Old Age and Survivors Insurance, Public Assistance, the Children's Bureau, and then we gathered into the department, under the Department of Education, the Vocational Rehabilitation Administration, the American Printing House for the Blind, Columbia Institute for the Deaf, and the Howard University. We did not include the Public Health

Service in the new department because we believed our public health activities were and are of such great importance to every individual American that they should be considered and handled separately. Therefore, the Commission recommended the Public Health Service be taken out of the Federal Security Agency when this new Department of Welfare, or new department of Cabinet status, was created, and be placed over in a different organization, the United States Medical Administration, in which we would include all of our health activities, including our Federal hospitals, under a board which would have over-all supervisory authority, but would not actually fix policy, as far as the operation of its different divisions was concerned. For instance, the Veterans' Administration hospitals to be fitted into this general United States Medical Administration, but would still be administered by the Veterans' Administration; the Army and Navy hospitals would fit in, and yet to be administered by the armed services, as would all the others, with Public Health Service as a division of that new agency, so we cold correlate and coordinate all of the public health activities of the Nation, get greater economy and efficiency, and still render better service to the people.

We found some very strange things in our studies of the Federal Security Agency.

We also found a great deal of inefficiency, waste, aand extravagance. Our findings have been fully supported, in just the last 2 or 3 weeks, by a report of a subcommittee of the House Committee on Post Office and Civil Service, which has been making an investigation under the chairmanship of the gentleman from Mississippi [Mr. WILLIAMS] of overstaffing and waste and inefficiency in various Government departments. They, too, found gross inefficiency and gross waste and extravagance and overstaffing in the Federal Security Agency, which is now under Mr. Ewing.

For instance, we found in one social-security office or division several thousand Government employees patiently and faithfully keeping records which the law had not required to be kept for many years. There were five or six thousand employees who were not needed at all.

I say to you with all the sincerity at my command if any man heads up the Department of Welfare, as we propose it be created under the Hoover Commission recommendation, he will have a man-sized job.

Why do we say that he should not also have Public Health under him, too? Because whenever we put all of the educational activities, all of the social-security activities, and all of these other activities of the Government, plus all of the health activities of the Nation, under one man, you have given that individual more power than any one person should exert or should be endowed with, for the good of the people.

Mr. JENSEN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield.

Mr. JENSEN. Does not the gentleman feel if this Reorganization Plan No. 27 goes into effect it will make one individual, the Secretary of Welfare, an all powerful superpolitical medicine man; a superpolitical dictator of public education, and a superpolitical Santa Claus?

Mr. BROWN of Ohio. Yes, I agree with the gentleman. As I just said a moment ago I think this plan which has been brought here places entirely too much power in the hands of one man.

Mr. Chairman, if I can I want to simplify the questions before us. We may talk all we please, and discuss these problems from the political angle, from the party angle, or from any other angle, but there are just two questions before us today—first, do you want to support the Hoover Commission recommendation; or do you want to support a plan which is different? Do you want reorganization according to that plan which has been recommended to you by the Hoover Commission, by a bipartisan or nonpartisan vote? Remember there were nine members of the commission who recommended the Public Health Service and all other health activities be taken from under the Federal Security Agency, and not placed in the Department of Public Welfare under Mr. Ewing or whoever else might be in charge, but under a separate agency, because health is so important to the people it should be considered and handled on a separate basis from almost anything else.

Three Commission members went the other way—two of the Democratic faith and one of Republican. Ours was not a partisan action in any way. Do you want to support the recommendations of the Hoover Commission, or do you want to support the recommendations of the President as outlined in this plant which he has submitted, and which is not in keeping with the Hoover Commission recommendation?

Mr. SHORT. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield.

Mr. SHORT. In many respects Benjamin Franklin was our greatest American. He said, "He who surrenders his liberty for temporary security, deserves neither, and will soon lose both."

Mr. BROWN of Ohio. I thank the gentleman for his contribution.

Mr. Chairman, the second question before us is whether we want to vote so as to further, if you please, certain present plans which have been underway to put into effect in America some sort of a compulsory medical-insurance or health-insurance program, as some may call it, or socialized medicine, as others may call it.

I think the greatest insurance we can have that we will not move further toward compulsory health insurance or socialized medicine, and that we will have a continuation of free enterprise in medical practice, with all the benefits that has been given to America under the greatest medical system ever known to mankind, is to vote in favor of this resolution. These are the only true issues we have to vote on.

If you want to reject this plan, then vote for this resolution. If you want to have the President put his proposal into effect, then vote against the resolution.

Mr. DAWSON. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. BIEMILLER].

(Mr. BIEMILLER asked and was given permission to revise and extend his remarks.)

Mr. BIEMILLER. Mr. Chairman, of all of the attempts that have been made today to becloud the issue, the most serious one has been the effort to impute that those who favor the President's plan somehow dislike all doctors. Nothing could be farther from the truth. I have tremendous admiration for the day to day work that has been done by doctors, as was so adequately described by the gentleman from Illinois [Mr. DAWSON]. The important point to be remembered today is this: The medical politicians of this country, the leaders of the American Medical Association, who presume to speak for all the doctors of America, have gone into politics with a vengeance. They have been fighting all of the advances that have been made in public health, all of the advances that have been made in social legislation in recent years. In the near future I am going to put the complete story in the RECORD. Today I have just time enough to point out that the American Medical Association opposed the original institution of local public health services throughout the country. They fought the reporting of communicable diseases. They fought the establishment of venereal disease clinics. They fought the workmen's compensation law. And they fought dozens of other forward steps.

In other words, they have fought all advances that have made possible the splendid public health record that we have today.

That legislative record should not be overlooked when you remember that such is the opposition to the President's plan.

Nor should you forget a speech that was made about 10 days ago opposing every single action that has been taken by the Democratic administration in the past several years—a speech that came from the incumbent president of the American Medical Association.

Now, let us recognize the facts of life. We are not really fighting a political battle on the question of health insurance, and certainly not on the bogy of socialized medicine. May I point out that within the past several weeks I have put into the RECORD a speech by Oscar Ewing unalterably opposing socialized medicine. May I point out that as one of the two authors of the President's health program in this House, I have made speech after speech opposing socialized medicine. Particularly have both Mr. Ewing and myself criticized the British Government for socializing hospitals. We want no such action here. Curiously enough, those of you who speak, sometimes guardedly, for a united medical administration, come closer to talking for socialized medicine than anyone else on

this floor. Where you have socialized medicine today is in the veterans' hospitals, in the Army hospitals, and in the Navy hospitals. Yes, in Bethesda Naval Hospital, my colleagues, where you go when you are sick. That is where you have socialized medicine. Only this morning, before a committee in the other body, the Director of the Veterans' Administration testified that the socialized medicine in the Veterans' Administration was the best medical care in the world, and it was better than any other medical care you could get in the United States.

Let us not get this issue fouled up. All the President's proposal does, as the gentleman from California [Mr. HOLIFIELD] pointed out, is to give you a chance to do away with inefficiency and overlapping in the Federal Security Administration. There is nothing more nor less involved in the whole plan. Reference has been made to the Williams report. If there is any validity to the Williams report—and I am not passing judgment on it at this time—but if some of the strictures made are valid, they stem from the fact that you cannot do away with overlapping between the three bodies that now exist inside the Federal Security Administration. We want to do away with that overlapping and we want to bring about efficiency, and that is all that there is to this plan.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. BIEMILLER] has expired.

Mr. DAWSON. Mr. Chairman, I yield the remainder of my time to the gentleman from Massachusetts, the distinguished majority leader [Mr. McCORMACK].

Mr. McCORMACK. Mr. Chairman, when my good friend, the gentleman from Indiana [Mr. HALLECK] made what appeared to be a very strong point that only 33 Members of the House in 1935 voted against the passage of the Social Security Act, thereby attempting to negate the assertion that I had previously made that the main opposition to it came from the Republican side in those days, my remembrance of those days remaining somewhat true to me prompted me to look at the RECORD. I have before me the RECORD of April 19, 1935, page 6068, where appears the following:

Mr. Treadway moves to recommit H. R. 7620—

That was the Social Security Act—

to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendments:

Page 2, line 10, strike out "$49,750,000" and insert in lieu thereof "$69,750,000."

And on page 4, line 25, strike out "$30" and insert "$40.00."

And beginning—

And note this—

And beginning with page 7, line 18, strike out all of title 2 down to and including line 9, on page 15.

And then further:

Beginning on page 40, line 10, strike out all of title 8 down to and including line 19 on page 47.

What is title 2? Title 2 of the Social Security Act is the heart of the bill. Strike that out and you cut off contributory old-age annuities. Title 2 is Federal old-age benefits, that is, survivors' insurance, that is your earned annuities.

On that motion to recommit the vote was 149 for and 253 against. As I look through this list of 149 I see mighty few Democrats who were here in those days voting to recommit. It is true that on passage the vote was 372 to 33; but the old trick was resorted to of trying to destroy the bill by a motion to recommit. That is where the damage is usually attempted by those who oppose progressive legislation.

There is no question involved in this resolution today or in the question before the Committee or the House today of any of our hospitals. That question is raised simply to try and befog the issue; it is raised because of reasons we all know. The only question is whether or not we have the courage because of a few or some who in good faith and who are honestly deceived living in districts might have asked Members to vote against this resolution or vote for this resolution, the effect of which would be to prevent the Federal Security Agency from having departmental status.

We hear the argument made about greater power. Whoever is the head of this agency, if the President is substained by Congress and it becomes of departmental status, will have no greater power than he now has; no rights are conferred upon him; he will possess only those powers he now possesses; so this idea of a great octopus is not a correct argument, is not fair. These three agencies that will constitute the department are not part of the Federal Security Agency.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Will the gentleman agree that if we do enact into law the social security bill, H. R. 6000, and it adds some 11,000,000 to social security, whoever is in charge of social security will have greater responsibility and greater power?

Mr. McCORMACK. Exactly, and if that is enacted into law it goes to this very agency. It does not go to any other agency. So that this agency without departmental status will have jurisdiction over it and it will have jurisdiction if it has a departmental status. Does my friend agree with me in that statement?

Mr. BROWN of Ohio. I agree with what the gentleman said provided he will permit me to add that the Hoover Commission, recognizing the fact that the responsibility and the power of the head of the Federal Security Agency which we recommended be made into a department of welfare, will be greatly increased by the Congress, as we too have recommended, and we therefore suggested and recommended that we divide up this responsibility and put public health somewhere else because we did not think he could take care of all the job that we were placing upon his shoulders.

Mr. McCORMACK. I agree with my friend. He made a temperate speech, a nonpolitical speech, which is very unusual for my very good friend. Of course, he made it because he did not think it necessary or wise to make a political speech. I agree that the Hoover report, except the minority, including some distinguished members of the Hoover Commission, does not agree completely with this proposal. But what proposal can? It does substantially. The great part of it agrees with the Hoover recommendation, and my friend was a member of that Commission. I fought shoulder to shoulder with him to have the Commission created and when his own party would not give him enough money I fought shoulder to shoulder with him to get the million dollars. Does the gentleman remember?

Mr. BROWN of Ohio. I want to give the gentleman full credit for that.

Mr. McCORMACK. I do not want credit. I want to show that once in a while I agree with my friend from Ohio when he is on the right side.

Mr. BROWN of Ohio. I appreciate that and I want to give the gentleman credit for being one of the most responsible fathers for the entire Hoover Commission program because he led the way in supporting the legislation.

Mr. McCORMACK. I am glad to say I followed the gentleman from Ohio. I tried to be right close to him.

Mr. BROWN of Ohio. I would like to get back to the gentleman's reference of me and to the fact that I made a very temperate, nonpolitical speech, and to assure the gentleman I made it in the hope it might prove to be an example worth following.

Mr. McCORMACK. The gentleman made it in the hope that it might be a little palative. My friend is the greatest Republican politician in the House. Why, of course, I admit that publicly.

Mr. BROWN of Ohio. Who is going to buy the other fellow the dinner tonight?

Mr. McCORMACK. The gentleman owes me several dinners.

Let us come down to other questions. They talk about socialism. Why, the great majority of my friends—not all of them—confuse dynamic democracy with socialism. They oppose, as I said, social security, they oppose the minimum wage law, they oppose public housing, they have opposed everything during the last 16 or 18 years; but one thing is certain and that is as long as they maintain that kind of leadership we Democrats need never fear about election.

The American people want progressive government, the American people are thinking for themselves. There are one-hundred-and-fifty-odd million Americans and they are thinking for themselves. They have their hopes, they have their aspirations. For example, 45 percent of the families of America have a family income of $3,000 a year or less in this land of bounty. There are 16,600,000 Americans that go home every night to their homes. I do not where it is, but it is their home, the same as my home is mine, the same as the home of a millionaire is his. They go to their

homes tonight with all their joys and with all their sorrows, their sickness and everything else. They leave in the morning, the mother and the wife usually left behind, as in our homes. There are 16,600,000 Americans in families with a total family income of $1,000 a year or less. There are 20,600,000 Americans, members of families, whose total income is between $1,000 and $2,000. Yes; some people can smile at that, but when there is serious illness they want their loved ones to have the best care possible; they want the best medical treatment. They are human beings just the same as you and I. And, they are thinking. Do not think they are not. You can make all the arguments you want here that come to your mind to try to inflame, but they are thinking of their loved ones. There are 28,700,000 Americans today, family people, that have a total family income of between $2,000 and $3,000.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. Just a moment. The gentleman does not like these figures.

Mr. BROWN of Ohio. I want to know where we are making progress.

Mr. McCORMACK. Just a moment. Let me complete it. Twenty-eight million five hundred thousand Americans, human beings, are member of families whose total family income is between $3,000 and $4,000 a year. Eighteen million one hundred thousand human beings, Americans, are members of families whose total family income is between $4,000 and $5,000 a year. If that is not a challenge to constructive statesmanship, I do not know what is.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. Does the gentleman not think that those people are concerned about their loved ones the same as he is?

Mr. BROWN of Ohio. I agree with the statement, the challenge to constructive statesmanship.

Mr. McCORMACK. Exactly, and that is all I say.

Mr. BROWN of Ohio. And that is the reason why, as a Member of the Eightieth Congress, I voted to reduce taxes for these people, the only time Federal taxes have been reduced in the last 20 years.

Mr. McCORMACK. I hope in the interest of progress that this resolution offered by the gentleman from Michigan [Mr. HOFFMAN] will be defeated and that the reorganization plan, so far as this House is concerned, will go into operation.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired. All time has expired. The Clerk will read.

The Clerk read as follows:

Resolved, That the House of Representatives does not favor the Reorganization Plan No. 27 transmitted to Congress by the President on May 31, 1950.

Mr. DAWSON. Mr. Chairman, I move that the committee do now rise and report the resolution back to the House with the recommendation that it be not agreed to.

Mr. BROWN of Ohio. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Ohio. As I understand, the vote on this motion is just the usual vote on the motion to rise and has no effect on whether we accept or reject the resolution.

The CHAIRMAN. The House will decide that question.

The question is on the motion offered by the gentleman from Illinois [Mr. DAWSON].

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. McSWEENEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (H. Res. 647) against the adoption of Reorganization Plan No. 27, had directed him to report the same back to the House with the recommendation that it be not agreed to.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That the House of Representatives does not favor the Reorganization Plan No. 27 transmitted to Congress by the President on May 31, 1950.

The SPEAKER. The question is on the adoption of the resolution.

Mr. HOFFMAN of Michigan. Mr. Speaker, on that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 249, nays 17, answered "present" 2, not voting 108, as follows:

[Roll No. 197]

YEAS—249

Abbitt	Chiperfield	Hale
Abernethy	Clevenger	Hall,
Albert	Cole, Kans.	Leonard W.
Allen, Calif.	Cole, N. Y.	Halleck
Allen, Ill.	Cooley	Hand
Andersen,	Corbett	Hardy
H. Carl	Cotton	Harrison
Andresen,	Coudert	Harvey
August H.	Cox	Hays, Ark.
Andrews	Crawford	Hays, Ohio
Angell	Crook	Hedrick
Arends	Cunningham	Herlong
Aspinall	Curtis	Herter
Auchincloss	Dague	Heselton
Barden	Davis, Ga.	Hill
Baring	Davis, Tenn.	Hobbs
Bates, Ky.	Davis, Wis.	Hoeven
Bates, Mass.	DeGraffenried	Hoffman, Ill.
Battle	D'Ewart	Hoffman, Mich.
Beall	Dolliver	Holmes
Beckworth	Doughton	Hope
Bennett, Fla.	Elliott	Horan
Bennett, Mich.	Ellsworth	Hull
Bentsen	Elston	Jacobs
Bishop	Fallon	James
Blackney	Fellows	Jenison
Boggs, Del.	Fenton	Jenkins
Bolton, Md.	Fernandez	Jennings
Bonner	Fisher	Jensen
Boykin	Ford	Jonas
Bramblett	Fugate	Jones, Ala.
Breen	Fulton	Jones, Mo.
Brehm	Gamble	Judd
Brown, Ga.	Garmatz	Karst
Brown, Ohio	Gary	Kean
Burdick	Gathings	Kearney
Burleson	Gavin	Kearns
Burnside	Golden	Keating
Burton	Goodwin	Kee
Byrnes, Wis.	Gore	Kilburn
Camp	Gossett	Kilday
Canfield	Grant	Kruse
Cannon	Gross	Kunkel
Case, N. J.	Guill	Lanham
Chatham	Gwinn	Larcade
Chelf	Hagen	LeCompte
LeFevre	Patten	Smathers
Lichtenwalter	Patterson	Smith, Kans.
Lind	Perkins	Smith, Va.
Linehan	Peterson	Smith, Wis.
Lovre	Pfeifer,	Spence
Lucas	Joseph L.	Steed
Lyle	Phillips, Calif.	Stefan
McConnell	Poage	Stigler
McCulloch	Polk	Stockman
McDonough	Potter	Taber
McGregor	Poulson	Talle
McGuire	Rains	Taylor
McMillan, S. C.	Rankin	Teague
Mack, Wash.	Redden	Thomas
Macy	Reed, Ill.	Thornberry
Mahon	Reed, N. Y.	Towe
Marsalis	Rees	Trimble
Martin, Iowa	Ribicoff	Underwood
Martin, Mass.	Rich	Van Zandt
Merrow	Riehlman	Vorys
Meyer	Robeson	Vursell
Michener	Rogers, Fla.	Wadsworth
Miller, Md.	Rogers, Mass.	Walter
Miller, Nebr.	Sadlak	Weichel
Mills	St. George	Welch
Morgan	Sanborn	Werdel
Morrison	Sasscer	Whitten
Morton	Saylor	Whittington
Murray, Tenn.	Scott, Hardie	Widnall
Murray, Wis.	Scott,	Wigglesworth
Nicholson	Hugh D., Jr.	Williams
Nixon	Scrivner	Wilson, Ind.
Noland	Scudder	Wilson, Tex.
Norblad	Secrest	Withrow
Norrell	Shafer	Wolcott
O'Hara, Minn.	Short	Wolverton
O'Konski	Sikes	Woodruff
Pace	Simpson, Ill.	Young
Passman	Simpson, Pa.	

NAYS—71

Addonizio	Engle, Calif.	Magee
Bailey	Feighan	Mansfield
Barrett, Pa.	Flood	Multer
Biemiller	Forand	Murdock
Blatnik	Gorski	Murphy
Bolling	Granahan	O'Brien, Ill.
Bosone	Granger	O'Brien, Mich.
Buchanan	Hart	O'Hara, Ill.
Buckley, Ill.	Havenner	O'Neill
Buckley, N. Y.	Heffernan	O'Sullivan
Burke	Holifield	O'Toole
Byrne, N. Y.	Howell	Philbin
Carnahan	Javits	Powell
Cavalcante	Karsten	Price
Celler	Kelly, N. Y.	Ramsay
Crosser	Keogh	Rhodes
Davies, N. Y.	King	Rodino
Dawson	Kirwan	Shelley
Denton	Lynch	Sullivan
Dollinger	McCarthy	Tauriello
Donohue	McKinnon	Walsh
Douglas	McSweeney	White, Calif.
Doyle	Mack, Ill.	Yates
Eberharter	Madden	

ANSWERED "PRESENT"—2

McCormack Miller, Calif.

NOT VOTING—108

Allen, La.	Green	Nelson
Anderson, Calif.	Gregory	Norton
Barrett, Wyo.	Hall,	Patman
Boggs, La.	Edwin Arthur	Pfeiffer,
Bolton, Ohio	Harden	William L.
Brooks	Hare	Phillips, Tenn.
Bryson	Harris	Pickett
Bulwinkle	Hébert	Plumley
Carlyle	Heller	Preston
Carroll	Hinshaw	Priest
Case, S. Dak.	Huber	Quinn
Chesney	Irving	Rabaut
Christopher	Jackson, Calif.	Regan
Chudoff	Jackson, Wash.	Richards
Clemente	Johnson	Rivers
Colmer	Jones, N. C.	Rooney
Combs	Keefe	Roosevelt
Cooper	Kelley, Pa.	Sabath
Davenport	Kennedy	Sadowski
Deane	Kerr	Sheppard
Delaney	Klein	Sims
Dingell	Lane	Smith, Ohio
Dondero	Latham	Staggers
Durham	Lodge	Stanley
Eaton	McGrath	Sutton
Engel, Mich.	McMillen, Ill.	Tackett
Evins	Marcantonio	Thompson
Fogarty	Marshall	Tollefson
Frazier	Mason	Velde
Furcolo	Miles	Vinson
Gillette	Mitchell	Wagner
Gilmer	Monroney	Wheeler
Gordon	Morris	Whitaker
Graham	Moulder	White, Idaho

Wickersham	Wilson, Okla.	Woodhouse
Wier	Winstead	Zablocki
Willis	Wood	

So the resolution was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Stanley for, with Mrs. Woodhouse against.

Mr. Whitaker for, with Mr. Jackson of Washington against.

Mr. Graham for, with Mr. McCormack against.

Mr. Gilmer for, with Mr. Chudoff against.

Mr. Jackson of California for, with Mr. Miller of California against.

Mr. Davenport for, with Mr. Green against.

Mr. Nelson for, with Mr. Rabaut against.

Mrs. Harden for, with Mr. Roosevelt against.

Mr. Winstead for, with Mr. Sabath against.

Mr. Kerr for, with Mrs. Norton against.

Mr. Lodge for, with Mr. Wagner against.

Mr. Velde for, with Mr. Klein against.

Mr. Pickett for, with Mr. Heller against.

Mr. William L. Pfeiffer for, with Marcantonio against.

Mr. Boggs of Louisiana for, with Mr. Kelley of Pennsylvania against.

Mr. Preston for, with Mr. McGrath against.

Mr. Chesney for, with Mr. Huber against.

Mr. Frazier for, with Mr. Irving against.

Mr. Willis for, with Mr. Dingell against.

Mr. Regan for, with Mr. Zablocki against.

Mr. Hébert for, with Mr. Sadowski against.

Mr. Richards for, with Mr. Gordon against.

Until further notice:

Mr. Tackett with Mr. Barrett of Wyoming.

Mr. Deane with Mr. McMillen of Illinois.

Mr. Thompson with Mrs. Bolton of Ohio.

Mr. Rooney with Mr. Dondero.

Mr. Carroll with Mr. Eaton.

Mr. Harris with Mr. Smith of Ohio.

Mr. Patman with Mr. Edwin Arthur Hall.

Mr. Staggers with Mr. Tollefson.

Mr. Fogarty with Mr. Hinshaw.

Mr. Wheeler with Mr. Johnson.

Mr. Colmer with Mr. Latham.

Mr. Allen of Louisiana with Mr. Anderson of California.

Mr. Gregory with Mr. Engel of Michigan.

Mr. Priest with Mr. Plumley.

Mr. Wickersham with Mr. Phillips of Tennessee.

Mr. Wood with Mr. Mason.

Mr. Vinson with Mr. Keefe.

Mr. Sutton with Mr. Gillette.

Mr. Kennedy with Mr. Case of South Dakota.

Mr. CROSSER changed his vote from "yea" to "nay."

Mr. SPENCE changed his vote from "nay" to "yea."

Mr. McCORMACK. Mr. Speaker, I have a live pair with the gentleman from Pennsylvania, Mr. GRAHAM. If he were present he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. MILLER of California. Mr. Speaker, I have a live pair with the gentleman from California, Mr. JACKSON. If he were present he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

GENERAL LEAVE TO EXTEND REMARKS

Mr. DAWSON. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days in which to extend their remarks on the resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. PHILBIN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

SERVICE TO COUNTRY

Mr. PHILBIN. Mr. Speaker, the recent unveiling in the Veterans Affairs Committee rooms of a beautiful portrait of our valued friend and esteemed colleague, Hon. EDITH NOURSE ROGERS, served to bring into brilliant focus the completion of her 25 years of outstanding service in this body.

In this brief time it is not possible for me to elaborate upon her work: First and foremost in her heart and mind, next to the security and well-being of the Nation itself, the welfare of our veterans has occupied a preeminent place. During her tenure, and particularly during her chairmanship on the Veterans Affairs Committee, the beloved gentlelady from Massachusetts has worked unselfishly and tirelessly for the boys who, in offering their all in the name of freedom, were wounded, maimed, and disabled. She has spoken and fought for all the veterans. In her, the veterans have had a strong loyal friend, truly dedicated to their interest, who ably sponsored their cause and who never failed them in carrying on the battle to secure justice and generous consideration for those who sacrificed so much for the Nation. Certainly no one in or out of the Congress has served the veteran and the Nation with more real devotion, sincerity, and unflagging zeal.

Of course, she has striven for all the people, regardless of class, race, or creed, and regardless of petty partisan influences. She has invariably shown a deep humane feeling for our less fortunate brethren.

Always ready to cooperate with her colleagues in a worthy cause, friendly, considerate, cheerful and gracious, the distinguished gentlelady has built an enviable reputation in the House as an efficient and effective public servant.

I am happy to congratulate her first upon the fine portrait which now so fittingly adorns our halls, and secondly, upon the very succesful completion of 25 years of devoted service to the veteran, the people of her district, and the country. May she continue to enjoy good health, energy, and strength for many years to come. And may she find in the gratitude of those for whom she has worked so unselfishly lasting satisfaction and happiness.

LOUIS P. MURPHY

Mr. BYRNE of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 3506) for the relief of Louis P. Murphy, United States immigrant inspector, El Paso, Tex., with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, will the gentleman tell me what the nature of the bill is and what he is trying to do?

Mr. BYRNE of New York. The bill as passed by the House appropriated the sum of $725.50, and the Senate reduced the amount to $225. The author of the bill, the gentleman from Texas [Mr. REGAN] requested that the House disagree with the Senate amendment and ask for a conference.

Mr. MARTIN of Massachusetts. I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentleman from New York? [After a pause.] The Chair hears none, and appoints the following conferees: Messrs. BYRNE of New York, LANE, and JENNINGS.

MRS. SIRVART ARSENIAN

Mr. BYRNE of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 3532) for the relief of Mrs. Sirvart Arsenian, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, line 5, after "Act", insert ": *Provided*, That passage of this act shall not be construed as an inference of liability on the part of the Government of the United States."

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

SPECIAL ORDER

The SPEAKER. Under previous order of the House, the gentleman from California [Mr. SHELLEY] is recognized for 30 minutes.

GHOST SHIPS AND GHOST MEN OR IRON SHIPS AND IRON MEN?

Mr. SHELLEY. Mr. Speaker, in the time of Theodore Roosevelt, when our proudest boast was that great Navy which swept the seas and by its very presence stopped the threat of wars, was borne the slogan "Iron ships and iron men." But in the wake of those iron ships, through all the seven seas, there sailed a prouder fleet—a tragic fleet of ghostly ships manned by the ghosts of men. Prouder because it had conquered, not by force of arms, but by sheer courage, daring, and human ingenuity. Tragic, because both it and its great heritage were long vanished from reality. The ships were the ghosts of the famed Yankee Clippers and the ghostly sailors

81ST CONGRESS
2d Session

SENATE

REPORT
No. 2581

ACTION ON HOOVER COMMISSION REPORTS

REPORT

OF THE

COMMITTEE ON EXPENDITURES IN THE EXECUTIVE DEPARTMENTS



OCTOBER 12, 1950.—Reported, under authority of the order of the Senate of September 13, 1950, and ordered to be printed

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1950

74257

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The Commission on Organization of the Executive Branch of the Government

Public Law 162, Eightieth Congress, approved July 7, 1947, declared it "to be the policy of Congress to promote economy, efficiency, and improved service in the transaction of the public business of departments, bureaus, agencies, boards, commissions, offices, independent establishments, and instrumentalities of the executive branch of the Government." To achieve that end, the statute authorized a bipartisan Commission on Organization of the executive branch of the Government to consist of 12 members. Appointees were:

HERBERT HOOVER, *Chairman*
DEAN ACHESON, *Vice Chairman*

ARTHUR S. FLEMMING
JAMES FORRESTAL
GEORGE H. MEAD
GEORGE D. AIKEN
JOSEPH P. KENNEDY
JOHN L. McCLELLAN
JAMES K. POLLOCK
CLARENCE J. BROWN
CARTER MANASCO
JAMES H. ROWE, JR.

81st Congress } SENATE { Report
2d Session } { No. 2581

ACTION ON HOOVER COMMISSION REPORTS

EIGHTY-FIRST CONGRESS [1]

October 12, 1950.—Ordered to be printed

Mr. McClellan, from the Committee on Expenditures in the Executive Departments, submitted the following

REPORT

The Committee on Expenditures in the Executive Departments, to whom was referred the 18 major reports and the concluding summary submitted to the Congress by the Commission on Organization of the Executive Branch of the Government,[2] commonly referred to as the Hoover Commission, submits the following report on the progress made in execution of the Commission's recommendations.

This report based on accomplishments of the Eighty-first Congress exclusive of the short session to be convened at noon on November 27, 1950, supplements a comprehensive analysis prepared and submitted to the Senate by this committee on October 12, 1949, in Senate Report 1158. That report contained detailed background information relative to Hoover Commission recommendations, supporting documents, agency comments, and legislative action taken as of that date. This report, while not repeating the detailed information contained in Senate Report 1158, presents the legislative history of all bills and resolutions through both the first and second sessions of the Eighty-first Congress relative to all recommendations contained in the Hoover reports.

With respect to 14 of the 18 reports filed by the Hoover Commission, this document analyzes the various types of action required for their fulfillment as determined by the Bureau of the Budget in an analysis of the Hoover reports compiled on September 30, 1949. These steps of implementation involve three primary aspects: (*a*) legislative action (including appropriations), (*b*) reorganization plan, and (*c*) administrative action. As to the four remaining Hoover Commission reports (on Office of General Services, Budgeting and Accounting, the National Security Organization, and Foreign Affairs) this document presents an analysis covering only legislative action because the recommendations in those four reports have been almost entirely activated in that manner.

[1] Exclusive of session to be convened November 27, 1950.
[2] Under provisions of Public Law 162, 80th Cong.

In each report, action taken is set forth under subheadings "Public Laws," "Reorganization Plans," "Other Legislative Action," and "Administrative Action," the last based on information furnished by the Bureau of the Budget. A brief summary has been appended to each of the reports to indicate recommendations effectuated and not effectuated during the Eighty-first Congress.

In addition to the summaries of legislative action, the document also presents a condensed table of the various bills, resolutions, and reorganization plans filed in the Congress, under 18 appropriate headings, which follows on pages 4–19. All Senate committees to whom legislation relating to Commission recommendations was referred cooperated in the compilation of this summary, but it is possible that other recommendations may have been given effect through provisions of other bills not called to this committee's attention. The over-all report also contains a separate table of reorganization plans submitted to the Congress by the President, and action taken thereon, appearing in connection with Report No. 1 on General Management, page 26.

The material here assembled shows that congressional consideration, related to or based largely on Hoover Commission recommendations, involved more than 300 separate bills and resolutions introduced during the Eighty-first Congress and 35 reorganization plans submitted by the President. Of the bills, no fewer than 70, exclusive of the hundreds related only to a greater or lesser degree, have been enacted into law; of the reorganization plans, 27 have been effectuated. Of the eight other reorganization plans, two were duplicates, leaving only six proposals which were disapproved by the Congress. The latter six plans all involved matters of policy coming within the jurisdiction of the legislative branch and were not merely structural reorganizations based on Hoover Commission recommendations.

Members of Congress have received numerous communications from persons interested in the Hoover Commission reports, some of which clearly indicate that there is little conception of the tremendous amount of work involved in the enactment of legislation carrying out any large-scale reorganization of a Government department or agency. Every such proposal requires months of effort in research, in preparation of supporting data, and in drafting appropriate legislation designed to fully implement such far-reaching recommendations.

To illustrate the time and effort involved in a specific reorganization, reference is made to the legislative history of Public Law No. 152, the Federal Property and Administrative Services Act of 1949, page 44, and amendments thereto covering records management, under Public Law No. 754, page 46. Enactment of the measure involved, in the Senate alone, the filing of 11 separate bills, including proposals of the Hoover Commission, the administration, and individual members of the Senate, which finally evolved in the passage of the act and amendments thereto. During the period from February 17, 1949, when the first bill was filed, and the enactment of Public Law No. 152 on June 30, 1949, and Public Law No. 754 on September 5, 1950, the Senate Committee on Expenditures in the Executive Departments held lengthy hearings and conferred repeatedly with representatives of the affected agencies. After reaching agreements on numerous complicated and sometimes controversial issues involved, the committee finally was able to present to the Congress legislation designed to accomplish fully the major recommendations of the Hoover Commission, with a number of improvements over the

original proposals. The House Committee on Expenditures in the Executive Departments then accepted the Senate version of both bills and introduced them as House bills in order to expedite and coordinate action of both Houses of Congress.

Likewise, the legislative history of the Budget and Accounting Procedures Act of 1950, Public Law No. 784, shows that considerable time and effort were expended in working out the complicated aspects of the act as outlined on pages 68–71 herein. The basic premise for this act originated 2 years before the Hoover Commission was created, when the Senate Committee on Expenditures in the Executive Departments initiated action which resulted in the creation of the joint-accounting project, referred to in the Commission's reports, composed of the General Accounting Office, the Bureau of the Budget, and the Department of the Treasury, for the improvement of the Federal accounting and budgeting system. Legislative action, initiated in June 1949, was finally terminated 16 months later with the approval of Public Law No. 784 on September 12, 1950.

During the intervening period, the Senate Committee on Expenditures held extensive hearings on the Hoover Commission bill (S. 2054) and finally introduced, on June 20, 1950, a completed committee bill, S. 3850. This bill represented months of study and concentrated effort to evolve a satisfactory bill which would effectuate the Hoover Commission's report, while meeting historical issues involving different points of view between the executive and legislative branches of the Government. It incorporated provisions carrying out the Commission's recommendations, but conformed to technical administrative considerations brought out at conference meetings with fiscal experts, both public and private, who assisted the committee in perfecting the final language to meet those problems. As with the preceding act, the House committee again accepted this Senate bill (S. 3850), which was introduced in the House on July 5, 1950, as H. R. 9038. The House committee adopted practically verbatim the report of the Senate committee (S. Rept. No. 2031, July 12; and H. Rept. No. 2556, July 13) after striking out three sections of the bill relating to transfers and reserves and modifying two sections relating to the performance budget. The House bill then was accepted in the Senate, as amended, in lieu of the original Senate bill, in order to expedite and coordinate actions necessary to activate the program by law.

In addition to an initial table of contents, indexes to departments and agencies, and to bills, resolutions, and reorganization plans are included at the end of this report.

Status of effectuating legislation on Hoover Commission recommendations, 81st Cong.

REPORT NO. 1. GENERAL MANAGEMENT OF THE EXECUTIVE BRANCH

[For details, see p. 21]

Bill or reorganization plan	Committee	Legislative progress
S. 526 [1] (McClellan), H. R. 1569 (Dawson), and H. R. 2361 (Dawson) [1]—Reorganization Act of 1949.	Expenditures in Executive Departments.	Public Law 109, June 20, 1949.
Reorganization Plans Nos. 1–8 of 1949 [1]—Of the 8 plans submitted by the President in 1949, the following numbered plans have some relevance to Hoover Commission Report No. 1 on General Management: No. 1, transferring programs of Federal Security Agency to a new Department of Welfare; No. 3, centralizing functions of Post Office Department in Postmaster General with power to delegate; No. 4, transferring NSC and NSRB to Executive Office of the President; No. 5, unified direction over executive affairs of U. S. Civil Service Commission by its Chairman; No. 6, vesting powers to appoint personnel and supervise activities of U. S. Maritime Commission in its Chairman; and No. 8, converting the National Military Establishment into a Department of Defense.	do	Plan No. 1 was rejected by the Senate, Nos. 2 to 7 became effective Aug. 20, 1949; No. 8 was indefinitely postponed, being incorporated in Public Law 216. (Details of each plan are set forth in appropriate reports, with a general résumé in Rept. No. 1, p. 21.)
Reorganization Plan No. 4 of 1949 [1]—Transfers National Security Council and National Security Resources Board to Executive Office of the President.	do	Effective Aug. 20, 1949.
S. 942 [2] (McClellan) and H. R. 2613 [2] (Dawson)—General Management Act of 1949	do	No action.
H. R. 5526 (McCormack)—Authorizes President to delegate certain functions	do	Public Law 673, Aug. 8, 1950.
S. 352 [3] (McClellan), H. R. 828 (Dawson), and H. R. 3005 [3] (Karsten)—Travel Expense Act of 1949.	do	Public Law 92, June 9, 1949.
Reorganization Plans Nos. 1–27 of 1950 [1]—Of the 27 plans submitted by the President in 1950, the following 16 numbered plans have some relevance to Hoover Commission Report No. 1 on General Management: No. 1, Department of Treasury (see similar Plan No. 26); No. 2, Department of Justice; No. 3, Department of Interior; No. 4, Department of Agriculture; No. 5, Department of Commerce; No. 6 Department of Labor; No. 7, ICC; No. 8, FTC; No. 9, FPC; No. 10, SEC; No. 11, FCC; No. 12, NLRB; No. 13, CAB; No. 25, NSRB; No. 26, Department of Treasury; and No. 27, new Department of Health, Education, and Security.	do	Of plans Nos. 1–13 of 1950, all of which have relevance to this report, 5 plans (Nos. 1, 4, 7, 11, and 12) were rejected by the Senate, and the other 8 plans became effective on May 24, 1950. The rejection of Plan No. 1 was subsequently counterbalanced by acceptance of modified plan No. 26 (effective July 31, 1950). No. 25 became effective on July 9, 1950. No. 27 was rejected by the House. (Details of each plan are set forth in appropriate reports, with a general résumé in Rept. No. 1, p. 21.)
Reorganization Plan No. 2 of 1950 [1]—Centralizes authority of Department of Justice in Attorney General.	do	Effctive May 24, 1950.
Reorganization Plan No. 25 of 1950 [1]—Transfers functions of National Security Resources Board to its Chairman, and makes NSRB advisory.	do	Effective July 9, 1950.

[For details, see p. 32]

S. 103 [1] (Lucas), and H. R. 808 [1] (Miller)—Increase in salary of President, Vice President, Speaker of the House, and heads and assistant heads of executive departments and independent agencies.	Post Office and Civil Service	Public Law 2, Jan. 19, 1949. (Salary increases for heads of agencies omitted, and incorporated in Public Law 359 below.)
Reorganization Plan No. 5 of 1949 [1]—U. S. Civil Service Commission	Expenditures in Executive Departments.	Effective Aug. 20, 1949.
S. 498 [1] (Lucas) and H. R. 1689 [1] (Miller of California)—Increase in Executive salaries	Post Office and Civil Service	Public Law 359, Oct. 15, 1949.
S. 660 (Langer) and H. R. 2446 (Klein)—In-force separations of veterans and career employees.	do	S. 660 reported July 15, 1949. No action on H. R. 2446.
S. 1937 [3] (Humphrey)—Retention of veterans' preference	do	Passed Senate Aug. 9, 1949.
S. 1762 [1] (Long)—Position-Classification and Pay Act of 1949	do	S. 2379 substituted.
S. 2379 [3] (Long) and H. R. 5931 [3] (Murray)—Classification Revision Act of 1949	do	Public Law 429, Oct. 28, 1949.
S. 2111 [2] (McCarthy) and H. R. 5181 [2] (Hoffman)—To revise the personnel policy governing the civil service.	do	Superseded by S. 3830 and H. R. 7824, below.
S. 721 (Baldwin) and H. R. 20 (Lyle)—To authorize the creation of 10 professional and scientific positions in NACA.	do	Public Law 167, July 13, 1949.
S. 1393 [3] (Tydings) and H. R. 3946 [3] (Vinson)—Authorizes professional personnel of NACA to attend accredited graduate schools for research and study without loss of pay or leave.	Armed Services	Public Law 472, Apr. 11, 1950.
S. 3050 (Johnston of South Carolina) and H. R. 7185 (Ramsay)—Direct restrictions of certain civil service examinations to veterans.	Post Office and Civil Service	S. 3050 reported Apr. 14, 1950. H. R. 7185 passed House May 1, 1950.
S. 2777 (Johnston of South Carolina), S. 2779 (Johnston of South Carolina), and S. 2782 (Langer)—Provide for certain uniform promotions in postal service.	do	No action.
H. R. 6847 (Walsh)—Establishes Civil Service Commission register of permanent Federal employees involved in force reduction.	do	Do.
H. R. 7261 (Lane)—Establishes Civil Service Commission Board of Fair Promotions	do	Do.
S. 3830 [3] (Frear) and H. R. 8925 [3] (Murray of Tennessee)—Direct agencies to devise plans for own recruitment.	do	No action on S. 3830. H. R. 8925 reported July 20, 1950.
H. R. 9159 (Fulton)—Provides additional method for equitable force reduction	do	No action.
H. R. 7264 and H. R. 7824 (Murray of Tennessee)—Provide for establishment in each agency of plans to evaluate work of personnel.	do	Public Law 873, Sept. 30, 1950.
H. R. 7439 (Murray of Tennessee) and H. R. 7716 (Fulton)—Grant authority to various agency heads to remove personnel in interest of national security.	do	H. R. 7439 became Public Law 722 on Aug. 26, 1950. No action on H. R. 7716.
H. R. 8140 (Ellsworth)—Federal Payroll Act of 1950	do	No action.
H. R. 6553 (Murray of Tennessee)—Provides uniform system of longevity salary increases for postal service.	do	Public Law 500, May 3, 1950.

[1] Administration bill. [2] Hoover Commission bill. [3] Committee bill.

Status of effectuating legislation on Hoover Commission recommendations, 81st Cong.—Continued

REPORT NO. 3. OFFICE OF GENERAL SERVICES (SUPPLY ACTIVITIES)

[For details, see p. 42]

Bill or reorganization plan	Committee	Legislative progress
S. 990 [1] (McClellan) and H. R. 2781 [1] (Dawson)—To reorganize and simplify the procurement, utilization, and disposal of Government property.	Expenditures in Executive Departments.	Incorporated in S. 2020 and H. R. 4754.
S. 991 [2] (McClellan) and H. R. 2641 [2] (Dawson)—To create an Office of General Services as a central agency to have jurisdiction and control over certain administrative services in the executive branch of the Government.	do	Do.
S. 859 (McClellan)—To authorize all Federal agencies to donate surplus property for educational purposes.	do	Incorporated in S. 2020.
S. 1809 [3] (McClellan)—To simplify the procurement, utilization, and disposal of Government property, to reorganize agencies of the Government.	do	Reported favorably May 9, 1949. Incorporated in S. 2020.
S. 597 [1] (McClellan) and H. R. 1745 [1] (Dawson)—For the more economical operation of the general supply fund of the Bureau of Federal Supply, Department of the Treasury.	do	Incorporated in S. 2020 and H. R. 4754.
H. R. 3447 (Riehlman)—To create a general property office, and for other purposes	do	Incorporated in H. R. 4754.
S. 2020 [3] (McClellan)—To simplify the procurement, utilization, and disposal of Government property, to reorganize certain agencies of the Government.	do	Passed Senate June 22, 1949. H. R. 4754 substituted.
H. R. 4754 [3] (Dawson)—Federal Property and Administrative Services Act of 1949	do	Public Law 152, July 1, 1949.
S. J. Res. 127 (McClellan) and H. J. Res. 340 (Dawson)—To clarify the status of the Architect of the Capitol under the Federal Property and Administrative Services Act of 1949.	do	Public Law 394, Oct. 26, 1949.
Reorganization Plan No. 7 of 1949—Transfers Public Roads Administration to Department of Commerce.	do	S. Res. 155 disapproving plan rejected in Senate Aug. 17, 1949. Plan effective Aug. 20, 1949.
S. 2692 (Pepper), H. R. 6566 (Sikes), and H. R. 6634 (Rogers)—To amend the Federal Property and Administrative Services Act of 1949 to authorize donation of certain surplus property for public-health purposes.	do	Incorporated in S. 3959.
S. 3781 and S. 3842 (McClellan), H. R. 7545 (Bolling), H. R. 8353 (Dawson), H. R. 8416 (Bolling), and H. R. 8890 (O'Hara)—To amend the Federal Property and Administrative Services Act of 1949, and for other purposes.	do	Superseded by S. 3959.
S. 3728 (McClellan)—To implement Reorganization Plan No. 20 of 1950 by amending title I of the U. S. Code regarding publication of statutes at large, treaties, and for other purposes.	do	Public Law 821, Sept. 23, 1950.
S. 3959 [3] (McClellan) and H. R. 9129 (Bolling)—To amend the Federal Property and Administrative Services Act of 1949, and for other purposes (Records Management).	do	Public Law 754, Sept. 5, 1950.
H. Con. Res. 97 (Anderson)—To provide for a single supply catalog system	do	Reported by House Armed Services Committee Jan. 20, 1950 (H. Rept. No. 1508). Passed House Feb. 6, 1950; reported to Senate Feb. 22, 1950 (S. Rept. No. 1361). Passed Senate Apr. 19, 1950.

S. 1095 (Johnson of Colorado) and H. R. 103 (O'Hara)—To create a Federal Traffic Bureau.	Interstate and Foreign Commerce.	No action.
H. R. 7429 and H. R. 7430 (Holifield)—To amend the Federal Property and Administrative Services Act of 1949, to clarify certain authority of the Administrator of General Services with respect to transportation and traffic management, to provide for an adequate traffic management service in the Federal Government and for other purposes. Related bills: S. 972, 2369; H. R. 321, 3238, 3447, 4396, 8170, 8173.	Expenditures in Executive Departments.	Do.
Reorganization Plan No. 15 of 1950—Transferring the functions of the General Services Administration relating to Public Works in Alaska and in the Virgin Islands to the Department of the Interior.	----do----	Effective May 24, 1950.
Reorganization Plan No. 16 of 1950—Transferred to the Federal Security Agency the functions of the General Services Administration relating to assistance to local school districts and grants and loans for water-pollution-control projects.	----do----	Do.
Reorganization Plan No. 17 of 1950—To transfer the functions of the General Services Administration relating to the advance planning of non-Federal public works and the management and disposal of certain war public works to the Housing and Home Finance Agency.	----do----	S. Res. No. 271, disapproving plan rejected by Senate May 23, 1950. Plan effective May 24, 1950.
Reorganization Plan No. 18 of 1950—Providing for the transfer to the Administrator of General Services the functions of the various Federal agencies with respect to leasing and assigning general purpose space in buildings and the operation, maintenance, and custody of office buildings.	----do----	S. Res. 270, disapproving plan rejected by Senate May 23, 1950. H. Res. 539 and H. Res. 541 reported unfavorably. Plan effective July 1, 1950.
S. 3812 (Humphrey)—Relating to the compensation and leave benefits of officers and employees in the custodial service of the Post Office Department transferred to the GSA under Reorganization Plan No. 18 of 1950.	Post Office and Civil Service----	Passed Senate Sept. 13, 1950.
Reorganization Plan No. 20 of 1950—Providing for transfer from the Secretary of State to the Administrator of General Services a number of functions which have no connection with foreign affairs but bear a close relation to the archival and records functions of the General Services Administration.	Expenditures in Executive Departments.	Effective May 24, 1950.

[1] Administration bill.
[2] Hoover Commission bill.
[3] Committee bill.

Status of effectuating legislation on Hoover Commission recommendations, 81st Cong.—Continued

REPORT NO. 4. THE POST OFFICE

[For details, see p. 54]

Bill or reorganization plan	Committee	Legislative progress
S. 2062 [2] (McCarthy) and H. R. 5177 [2] (Hoffman)—Post Office Reorganization Act of 1949.	Post Office and Civil Service	Superseded by H. R. 8923.
S. 2212 [1] (Frear) and H. R. 5775 [1] (Murray)—Post Office Department Financial Control Act of 1949.	do	Do.
S. 2509 (Flanders)—Post Office and Finance Control Act of 1949	do	Do.
S. 3829 [1] (Frear, Humphrey, Thye), H. R. 8923 [1] (Murray of Tennessee), and H. R. 8926 [1] (Rees)—Post Office Department Financial Control Act of 1950.	do	Public Law 712, Aug. 17, 1950.
S. 2213 [1] (Frear) and H. R. 5643 [1] (O'Brien)—Appointment of postmasters by Postmaster General.	do	S. 2213 indefinitely postponed. No action on H. R. 5643.
Reorganization Plan No. 3 of 1949 [1]—Post Office Department	Expenditures in Executive Departments.	Effective Aug. 20, 1949.
S. 1103 [1 3] (Johnston of South Carolina and Langer), S. 1630 (Neely), and H. R. 2945 [3] (Murray)—To readjust postal rates.	Post Office and Civil Service	S. 1103 reported Sept. 30, 1949. H. R. 2945 passed House Feb. 9, 1950. No action on S. 1630.
S. 1431 (Johnson of Colorado), H. R. 2908 (Kennedy), H. R. 9184 (Heselton), and H. R. 9305 (Hall)—Relating to air-mail subsidy.	Interstate and Foreign Commerce.	H. R. 9184 reported Aug. 31, 1950. No action on other bills.
H. R. 91 (Miller)—To improve post office and civil-service operations of department (Research and development). Related bills: S. 324, 391, 541, 542, 549, 558, 644, 892, 1174, 1391, 1978, 2027, and 2030; H. R. 549, 3826, and 5538.	Post Office and Civil Service	Public Law 231, Aug. 16, 1949.
S. J. Res. 197 (Leahy)—Provides for investigation of business aspects of postal service	do	No action.

REPORT NO. 5. FOREIGN AFFAIRS

[For details, see p. 59]

S. 1704 [1] (Connally)—Reorganization of Department of State	Foreign Relations	Public Law 73, May 26, 1949.
H. R. 3559 [1] (Kee)—Same as above	Foreign Affairs	S. 1704 passed in lieu.
H. R. 9228 (Battle)—Creates Foreign Affairs Advisory Commission	do	No action.
S. 3718 (Saltonstall, and Smith of New Jersey)—Establishes commission to make economic recommendations for action to follow ECA.	Foreign Relations	Do.
S. 3780 (Mundt)—Creates Commission on Cooperative International Relations	do	Do.
H. J. Res. 521 (Coudert)—To create select joint committee on foreign policy, and for other purposes. (Identical: H. J. Res. 525 to H. J. Res. 535, inclusive.)	Foreign Affairs	Do.

REPORT NO. 6. DEPARTMENT OF AGRICULTURE

[For details, see p. 63]

S. 2055 [2] (McCarthy)—To reorganize the Department of Agriculture	Agriculture and Forestry	No action.
H. R. 5179 [2] (Hoffman)—To reorganize the Department of Agriculture	Agriculture	Do.
S. 3783 [1] (Ellender)—To establish 2 additional offices of Assistant Secretaries of Agriculture and office of an Administrative Assistant Secretary of Agriculture, and for other purposes.	Agriculture and Forestry	Do.
H. R. 8850 [1] (Cooley)—To establish 2 additional offices of Assistant Secretaries of Agriculture and office of an Administrative Assistant Secretary of Agriculture, and for other purposes.	Agriculture	Passed House Aug. 23, 1950.
Reorganization Plan No. 4 of 1950—Providing for reorganizations in Department of Agriculture.	Expenditures in Executive Departments.	S. Res. No. 263, disapproving plan, adopted May 18, 1950.

[1] Administration bill.
[2] Hoover Commission bill.
[3] Committee bill.

Status of effectuating legislation on Hoover Commission recommendations, 81st Cong.—Continued

REPORT NO. 7. BUDGETING AND ACCOUNTING

[For details, see p. 67]

Bill or reorganization plan	Committee	Legislative progress
S. 2054 [2] (McCarthy), and H. R. 5178 [2] and H. R. 5823 (Hoffman)—To improve budget, accounting, and auditing methods.	Expenditures in Executive Departments.	S. 3850 substituted.
S. 3850 [3] (McClellan) and H. R. 9038 [2] (Karsten)—To improve budget, accounting, and auditing methods.	do	Public Law 784, Sept. 12, 1950, and sec. 1211 of Public Law 759, Sept. 6, 1950 (General Appropriation Act of 1951).
S. 1843 (Tydings) and H. R. 5632 (Short)—Title IV of the National Security Act Amendments of 1949. Related bills: S. 1269; H. R. 3845, 5593.	Armed Services	Public Law 216, Aug. 10, 1949.
H. R. 8054 (Roosevelt)—To relate cash budget and national economy	Expenditures in Executive Departments.	Hearings June 8 and July 18, 1950.
S. 2161 (Hunt, Withers, Lodge)—Authorizes President to impound certain appropriated moneys.	do	No action.
S. 2898 (McClellan)—To establish Joint Committee on the Budget Related bill: S. Con. Res. 38.	do	Do.
S. J. Res. 108 (McClellan and others)—Reducing Government expenditures Related bills: S. J. Res. 94, 97, and 101.	do	S. J. Res. 108 is similar to reduction required under sec. 1214 of Public Law 759, Sept. 6, 1950 (General Appropriation Act of 1951).
S. J. Res. 131 (McClellan)—Requiring transmission to Congress of an alternate and balanced budget for the fiscal year 1951.	do	S. J. Res. 131 was rejected by conferees as amendment to H. R. 1689 (Executive Pay Raise Act) on Oct. 12, 1949.
S. 3829 [3] (Frear, Humphrey, Thye), H. R. 8923 (Murray of Tennessee), and H. R. 8926 [3] (Rees)—Post Office Department Financial Control Act of 1950. Related bills: S. 2062, 2212, 2509; H. R. 5177, 5775.	Post Office and Civil Service	Public Law 712, Aug. 17, 1950. No action on S. 3829 and H. R. 8926.
S. 3653 [1] (McClellan)—To provide for financing the operations of the Bureau of Engraving and Printing.	Expenditures in Executive Departments.	Public Law 558, Aug. 4, 1950.
S. 4002 [3] (McClellan), S. 3971 (Tydings), and H. R. 9430 [3] (Dawson)—Amendments to the Administrative Expenses Act of 1946. Related bills: S. 3971,[1] 4001.	do	Public Law 830, Sept 23, 1950.
S. 3652 (McClellan)—To facilitate the settlement of accounts of certain deceased civilian employees of the Government.	do	Public Law 636, Aug. 3, 1950.

[For details, see p. 78]

S. 1044 (Tydings) and H. R. 2216 (Short)—Amend National Security Act of 1947, and provide an Under Secretary of Defense.	Armed Services	Public Law 36, Apr. 2, 1949.
S. 108 (Morse)—To amend National Security Act of 1947, and provide for a single executive Department of Defense.	do	No action.
S. 1269 [2] (Tydings) and H. R. 3845 [3] (Vinson)—To convert National Military Establishment into a Department of Defense.	do	Revised and incorporated in S. 1843.
S. 1843 [3] (Tydings)—To convert the National Military Establishment into a Department of Defense.	do	Incorporated in H. R. 5632.
H. R. 5632 [3] (Short)—To reorganize fiscal management of National Military Establishment.	do	Public Law 216, Aug. 10, 1949.
Reorganization Plan No. 8 of 1949 [1]—To convert the National Military Establishment into a Department of Defense.	Expenditures in Executive Departments.	Incorporated in Public Law 216, Aug. 10, 1949.
Reorganization Plan No. 4 of 1949—Transfers the National Security Council and the National Security Resources Board to the Executive Office of the President.	do	Effective Aug. 20, 1949.
Reorganization Plan No. 25 of 1950—Transferred the functions of the National Security Resources Board to the Chairman and made the Board advisory to the Chairman.	do	Effective July 9, 1950.
S. 961 (Tydings) and H. R. 2663 (Sasscer)—Improve administration of Central Intelligence Agency.	Armed Services	Public Law 110, June 20, 1949.
S. 1268 (Tydings)—To facilitate acquisition of strategic and critical materials for stockpiling purposes.	do	No action.
S. 1740 (Tydings)—Interservice transfer of commissioned personnel	do	Incorporated in S. 1843 but rejected by conferees.
S. 2334 and S. 3691 (Tydings), H. R. 5794 (Vinson), and H. R. 8198 (Kilday)—To reorganize the Department of the Army.	do	Public Law 581, June 28, 1950.
S. J. Res. 27 (Brewster)—To establish a temporary Commission on Military Contract Audits.	do	No action.
S. 4029 (Gurney) and H. R. 9554 (Vinson)—To amend the Selective Service Act of 1948, as amended, so as to provide for special registration, classification, and induction of certain medical, dental, and allied specialist categories, and for other purposes. Related bills: H. R. 3845, 5593, 5632, 9294, 9311, 9327, 9358.	do	Public Law 779, Sept. 9, 1950.

[1] Administration bill.
[2] Hoover Commission bill.
[3] Committee bill.

Status of effectuating legislation on Hoover Commission recommendations, 81st Cong.—Continued

REPORT NO. 9. VETERANS' AFFAIRS

[For details see p. 84]

Bill or reorganization plan	Committee	Legislative progress
S. 2019 [2] (McClellan)—Creates Veterans Insurance Corporation	Finance	No action.
H. R. 5171 [2] (Rankin) (H. R. 5288 (Evins))—Same	Veterans' Affairs	Do.
S. 2596 (Taft)—Amends Public Law 266, 81st Cong., Servicemen's Readjustment Act, concerning educational institutions.	Labor and Public Welfare	Public Law 610, July 13, 1950.

REPORT NO. 10. DEPARTMENT OF COMMERCE

[For details, see p. —]

Reorganization Plan No. 7 of 1949 [1]—Transfer of Public Roads Administration to Department of Commerce.	Expenditures in Executive Departments.	Effective Aug. 20, 1949.
S. 2056 [2] (McCarthy) and H. R. 5180 [2] (Hoffman)—Reorganization of Department of Commerce.	Interstate and Foreign Commerce.	No action.
Reorganization Plan No. 5 of 1950 [1]—Reorganization of Department of Commerce	Expenditures in Executive Departments.	H. Res. 546, disapproving plan, rejected by House May 18, 1950. S. Res. 259, disapproving plan, rejected by Senate May 23, 1950. Plan effective May 24, 1950.
Reorganization Plan No. 21 of 1950 [1]—Establishes a Federal Maritime Board, a Maritime Administration, and an Office of Under Secretary of Commerce for Transportation in Department of Commerce. Abolishes Maritime Commission.	do	S. Res. 265, disapproving plan rejected by Senate May 19, 1950. Plan effective May 24, 1950.
Reorganization Plan No. 24 of 1950 [1]—Transfer of RFC to Department of Commerce	do	H. Res. 648, disapproving plan rejected June 30, 1950. S. Res. 290, disapproving plan adopted July 6, 1950.

[For details see p. 90]

S. 1809 and S. 2020 (McClellan)—Federal Property and Administrative Services Act.	Expenditures in Executive Departments.	Public Law 152, June 30, 1949. (See also pp. 6 and 44.)
S. 2058 [2] (McCarthy)—To reorganize Treasury Department	Finance	No action.
H. R. 5174 [2] (Hoffman)—Same	Ways and Means	Do.
S. 193 (Downey), H. R. 2830 (Holifield), H. R. 2871 (Miller), and H. R. 2943 and H. R. 4084 (Multer)—Federal payment of premiums on employee fidelity bonds.	Expenditures in Executive Departments.	H. R. 8706 substituted.
S. 1692 (Holland) and H. R. 4642 (Peterson)—Provide Government fidelity insurance at Government expense.	do	Do.
S. 1997 (McCarran)—Provide Government fidelity insurance at employee expense	do	Do.
S. 2515 (Johnston of South Carolina) and H. R. 4002 (Karst)—Provide Government fidelity insurance in Post Office Department at employee expense.	Post Office and Civil Service	Do.
H. R. 8706 [3] (Karsten)—Authorizing Government payment of blanket surety bonds.	Expenditures in Executive Departments.	H. R. 8706 passed House July 17, 1950; indefinitely postponed in Senate.
S. J. Res. 9 (Tobey) and S. 1559 (Maybank, Tobey)—Establish a National Monetary Commission.	Banking and Currency	S. 1559 passed Senate June 2, 1949. No action on S. J. Res. 9.
Reorganization Plan No. 1 of 1950—Centralizing functions of Department of the Treasury, except hearing examiners and Coast Guard.	Expenditures in Executive Departments.	S. Res. 246, disapproving plan, adopted in the Senate May 11, 1950.
Reorganization Plan No. 26 of 1950—Same as plan No. 1 of 1950, except that the functions of Comptroller of Currency are excluded.	do	Effective July 31, 1950.
S. 3653 [1] (McClellan) and H. R. 8662 (Dawson)—To provide for financing the operations of the Bureau of Engraving and Printing.	do	Public Law 656, Aug. 4, 1950.

[1] Administration bill.
[2] Hoover Commission bill.
[3] Committee bill.

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Status of effectuating legislation on Hoover Commission recommendations, 81st Cong.—Continued

REPORT NO. 12. REGULATORY COMMISSIONS

[For details see p. 96]

Bill or reorganization plan	Committee	Legislative progress
Reorganization Plan No. 6 of 1949 [1]—U. S. Maritime Commission	Expenditures in Executive Departments.	Effective, Aug. 20, 1949.
S. 2073 [2] (McClellan), S. 2059 [2] (McCarthy), and H. R. 5173 [2] (Hoffman)—Reorganization of regulatory agencies.	do	No action.
S. 2330 [3] (Johnson of Colorado)—Covering ICC, CAB, USMC, FCC, FTC, and FPC incorporated in S. 2073.	Interstate and Foreign Commerce.	Do.
S. 2340 [3] (Maybank)—Covering Securities and Exchange Commission and Federal Reserve Board in S. 2073.	Banking and Currency	Do.
S. 1973 (McFarland)—Communications Act amendments of 1949	Interstate and Foreign Commerce.	Passed Senate Aug. 9, 1949.
S. 1626 (Johnson of Colorado)—Raises salaries of members of FCC	do	No action.
S. 448 (Johnson of Colorado)—Authorizes CAB Commissioners to delegate functions	do	Do.
H. R. 4082 (Beckworth)—Same	do	Passed House May 16, 1949.
S. 440 (Johnson of Colorado) and H. R. 159 (Crosser)—Expiration of terms of FPC Commissioners.	do	No action.
S. 450 (Johnson of Colorado)—Authorizes Civil Aeronautics Administrator to delegate certain functions.	do	Public Law 858, Sept. 29, 1950.
S. 3339 (Taft)—To amend Labor Management Relations Act of 1947, providing for reorganization of the NLRB.	Labor and Public Welfare	No action.
Reorganization Plan No. 7 of 1950 [1]—Reorganization of Interstate Commerce Commission.	Expenditures in Executive Departments.	H. Res. 545, disapproving plan, reported unfavorably May 1, 1950; S. Res. 253, disapproving plan, adopted by Senate May 17, 1950.
Reorganization Plan No. 8 of 1950 [1]	do	S. Res. 254, disapproving plan, rejected by Senate May 23, 1950; plan effective May 24, 1950.
Reorganization Plan No. 9 of 1950 [1]—Reorganization of Federal Power Commission	do	S. Res. 255, disapproving plan, rejected by Senate May 22, 1950; plan effective May 24, 1950.
Reorganization Plan No. 10 of 1950 [1]—Reorganization of Securities and Exchange Commission.	do	Effective May 24, 1950.
Reorganization Plan No. 11 of 1950 [1]—Reorganization of Federal Communications Commission.	do	S. Res. 256, disapproving plan adopted by Senate May 17, 1950.
Reorganization Plan No. 12 of 1950 [1]—Reorganization of the National Labor Relations Board.	do	H. Res. 516, disapproving plan, reported unfavorably Mar. 28, 1950; S. Res. 248, disapproving plan, adopted by Senate May 11, 1950.
Reorganization Plan No. 13 of 1950 [1]—Reorganization of Civil Aeronautics Board	do	Effective May 24, 1950.

REPORT No. 13. DEPARTMENT OF LABOR

[For details see p. 101]

Reorganization Plan No. 2 of 1949 [1]—Transfers Bureau of Employment Security to Department of Labor.	Expenditures in Executive Department.	Effective Aug. 20, 1949.
H. R. 5856 (Lesinski)—Fair Labor Standards Act of 1949	Education and Labor	Public Law 393, Oct. 26, 1949.
Reorganization Plan No. 6 of 1950 [1]—Reorganization of Department of Labor	Expenditures in Executive Departments.	H. Res. 522, disapproving plan, rejected by House, May 18, 1950; became effective May 24, 1950.
Reorganization Plan No. 14 of 1950 [1]—Coordination of the Administration of Labor Standards.	do	Effective May 24, 1950.
Reorganization Plan No. 19 of 1950 [1]—Transfer of Bureau of Employees Compensation and Employees Compensation Appeals Board to Department of Labor.	do	Do.

REPORT NO. 14. DEPARTMENT OF THE INTERIOR

[For details see p. 104]

S. 2116 (Chavez et al.) H. R. 5739 (Whittington)—Advance Planning of Public Works	Public Works	Public Law 352, Oct. 13, 1949.
S. 2057 [2] (McCarthy)—Reorganization of Department of Interior	Interior and Insular Affairs	No action.
S. 2833 [2] (Cain)—Transfer of Civil Functions of U. S. Corps of Engineers to Department of Interior, etc.	Expenditures in Executive Departments.	Indefinitely postponed.
S. 3657 [2] (Douglas)—Transfer civil functions of U. S. Corps of Engineers to Department of Interior, etc.	Public Works	No action.
H. R. 5176 [2] (Hoffman)—Reorganization of Department of Interior	do	Do.
H. R. 5469 [2], H. R. 6317 [2], and H. R. 8663 [2] (White)—Transfer civil functions of U. S. Corps of Engineers to Department of Interior, etc.	Expenditures in Executive Departments.	Do.
H. R. 6920 [2] (Douglas)—Transfer civil functions of Corps of Engineers to Department of Interior, etc.	do	Do.
S. 2105 (O'Mahoney)—National Minerals Act of 1949	Interior and Insular Affairs	Passed Senate Oct. 6, 1949; failed of passage in House Mar. 16, 1950.
S. 2230 (Ecton)—National Minerals Act of 1949	do	Incorporated in S. 2105.
S. 240 (Murray)—National Minerals Act of 1949	do	Reported Aug. 26, 1949.
H. R. 976 (Engel)—National Minerals Act of 1949	Public Lands	Reported May 31, 1949.
H. R. 5725 (Engel)—National Minerals Exploration Act of 1949	do	Reported July 27, 1949.
S. 2726 (Malone)—Emancipation of Indians	Interior and Insular Affairs	No action.
Reorganization Plan No. 3 of 1950 [1]—Reorganization of Department of the Interior	Expenditures in Executive Departments.	Effective May 24, 1950.
Reorganization Plan No. 15 of 1950 [1]—Transfer of Federal works programs in Alaska and Virgin Islands from GSA to Department of the Interior.	do	Do.

[1] Administration bill. [2] Hoover Commission bill. [3] Committee bill.

Status of effectuating legislation on Hoover Commission recommendations, 81st Cong.—Continued

REPORT NO. 15. SOCIAL SECURITY, EDUCATION, AND INDIAN AFFAIRS

[For details see p. 108]

Bill or reorganization plan	Committee	Legislative progress
Reorganization Plan No. 1 of 1949 [1], Department of Welfare	Expenditures in Executive Departments.	S. Res. 147, disapproving plan, adopted by Senate Aug. 16, 1949.
S. 1359 (Johnston of South Carolina) and H. R. 3445 (Murray of Tennessee)—Expands Civil Service Retirement Act to include certain employees.	Post Office and Civil Service	Public Law 180, July 21, 1949.
S. 2060 (McCarthy) (in nature of a substitute)—Department of Health, Education, and Security.	Expenditures in Executive Departments.	No action. (See Reorganization Plan No. 27 of 1950.)
S. 2060 (McCarthy) [2]—Establish a Department of Welfare	do	Superseded by S. 2060 in nature of a substitute.
H. R. 5175 (Hoffman) [2]—Establish a Department of Welfare	do	No action.
H. R. 782 (Dawson)—Establish a Department of Welfare	do	Reported Feb. 15, 1949.
H. R. 1402 (Miller)—Department of National Health and Welfare	do	No action.
H. R. 184 (Harris)—Department of Health, Education, and Security	do	Do.
S. 2726 (Malone)—Abolish function of Bureau of Indian Affairs; remove Federal guardianship over Indians.	Interior and Insular Affairs	Do.
H. R. 6000 (Doughton)—Social-security amendments of 1949	Ways and Means	Public Law 734, Aug. 28, 1950.
Reorganization Plan No. 27 of 1950 [1]	Expenditures in Executive Departments.	H. Res. 647, disapproving plan, adopted by House July 10, 1950; S. Res. 302, disapproving plan, indefinitely postponed.
Reorganization Plan No. 16 of 1950 [1]—Transfer of financial assistance to public school districts and for water-pollution control from GSA to FSA.	do	Effective, May 24, 1950.

[For details, see p. 114]

S. 2008 [2] (Thomas of Utah)—United Medical and Hospital Administration Act	Labor and Public Welfare	Hearings began Apr. 25, 1950.
H. R. 5182 [2] (Hoffman)—United Medical and Hospital Administration Act Related bills: S. 2060; H. R. 184, 782, 1402, 5175.	Expenditures in Executive Departments.	Hearings on H. R. 5182 began Mar. 22, 1950. H. R. 782 reported Feb. 15, 1949.
Reorganization Plan No. 1 of 1949 [1]—Providing for a Department of Welfare	do	S. Res. 147, disapproving plan, adopted in the Senate Aug. 16, 1949.
S. 1679 [1] (Thomas of Utah et al.)—National Health Insurance and Public Health Act	Labor and Public Welfare	Hearings began May 23, 1949. No action.
H. R. 4312 [1] (Biemiller) and H. R. 4313 [1] (Dingell)—National Health Insurance and Public Health Act. Related bills: S. 5, 1581, 1970, 2940; and H. R. 4918.	Interstate and Foreign Commerce.	Hearings began May 20, 1949. No action.
S. 1456 (Hill et al.)—Voluntary Health Insurance Related bills: H. R. 4925, 4926, 4927, 4928, 4929, 4930, 4931.	do	Hearings began May 23, 1949. No action.
S. 522 (Hill, et al.)—Local Public Health Units Act	Labor and Public Welfare	Passed Senate Aug. 27, 1949.
H. R. 5865 (Priest)—Local Public Health Units Act	Interstate and Foreign Commerce.	Reported July 3, 1950.
S. 614 (Hill et al.) and H. R. 5903 (Priest)—Hospital Survey and Construction Amendments of 1949.	Labor and Public Welfare	Public Law 380, Oct. 25, 1949.
S. 904 (Douglas)—Dealing with child welfare Related bills: S. 2352; H. R. 4725, 4821, 5393, 5567, 5835, 6200, 6201, 6202.	do	Hearings began May 11, 1949. No action.
S. 2591 (Pepper)—Authorizing research institutes on various diseases	do	Public Law 692, Aug. 15, 1950.
H. R. 3943 (Priest)—Authorizing research institutes on various diseases Related bills: S. 2584 and title II of S. 1679.	Interstate and Foreign Commerce.	S. 2591 substituted.
S. 1453 [3] (Pepper et al.) and H. R. 5940, H. R. 8886 and H. R. 9508 (Biemiller)—Providing Federal aid for health education.	do	S. 1453 passed Senate Sept. 23, 1949. H. R. 5940 reported Oct. 11, 1949. No action on H. R. 8886 or H. R. 9508.
Reorganization Plan No. 27 of 1950—To create a Department of Health, Education, and Security.	Expenditures in Executive Departments.	H. Res. 647, disapproving plan, adopted in the House July 10, 1950.

[1] Administration bill.
[2] Hoover Commission bill.
[3] Committee bill.

Status of effectuating legislation on Hoover Commission recommendations, 81st Cong.—Continued

REPORT NO. 17. FEDERAL BUSINESS ENTERPRISES

[For details, see p. 120]

Bill or reorganization plan	Committee	Legislative progress
S. 211 (Wherry et al.)—Inland Waterways Amendments of 1949	Interstate and Foreign Commerce.	Reported Oct. 15, 1949.
S. 2246 (Sparkman) and H. R. 7402 (Spence)—Housing Act of 1950	Banking and Currency	Public Law 475, Apr. 20, 1950.
Reorganization Plan No. 22 of 1950—To transfer Federal National Mortgage Association from Reconstruction Finance Corporation to Housing and Home Finance Agency.	Expenditures in Executive Departments.	Became effective Sept. 7, 1950.
Reorganization Plan No. 23 of 1950—To transfer financing of factory-built homes from Reconstruction Finance Corporation to Housing and Home Finance Agency.	do	Do.
Reorganization Plan No. 24 of 1950—To transfer Reconstruction Finance Corporation to Department of Commerce.	do	S. Res. 290, disapproving plan, adopted in Senate July 6, 1950.
S. Res. 219 (Fulbright)—To provide for study of Reconstruction Finance Corporation	Banking and Currency	Adopted Feb. 8, 1950.
H. R. 8677 (Hart)—Relating to maintenance and operation of Panama Canal	Merchant Marine and Fisheries.	Public Law 841, Sept. 26, 1950.

REPORT NO. 18. PART 1: OVERSEAS ADMINISTRATION

[For details, see p. 128]

S. 2072 [3] (McClellan), S. 2061 [3] (McCarthy), H. R. 5172 [3] (Hoffman), and H. R. 7554 [3] (Wilson of Oklahoma)—Create Commission on Overseas Administration.	Expenditures in Executive Departments.	S. 2072 passed Senate Aug. 27, 1949. Referred to House Committee on Expenditures Sept. 2, 1949. No action on S. 2061, H. R. 5172, and H. R. 7554.
H. R. 6170 [3] (Mansfield)—Same	Foreign Affairs	No action.

REPORT NO. 18. PART 2: FEDERAL-STATE RELATIONS

[For details, see p. 130]

S. 1946 [3] (Taylor et al.)—Creates Commission on Intergovernmental Relations. (S. 767, S. 810, H. R. 2389, H. R. 3184, H. R. 3944, H. R. 4507, and S. J. Res. 41 were incorporated in S. 1946.)	Expenditures in Executive Departments.	Superseded by S. 2147.
S. 3147 [3] (Humphrey et al.) and H. R. 8843 (Mitchell)—To establish temporary National Commission on Intergovernmental Relations.	do	S. 3147 reported in Senate June 22, 1950. No action on H. R. 8843.
H. R. 7904 (Coudert) and H. R. 8714 (Donohue)—To establish Commission on Reallocation of Federal, State, and Local Functions and Sources of Revenue.	do	No action.

REPORT NO. 18. PART 3: FEDERAL RESEARCH

[For details, see p. 133]

S. 247 [3] (Thomas of Utah)—National Science Foundation Act of 1949	Labor and Public Welfare	Public Law 507, May 10, 1950.
H. R. 4846 [3] (Priest)—Same. Related bills: H. R. 12, 185, 311, 359, 1845, 2308, 2751, 5669.	Interstate and Foreign Commerce.	S. 247, above, passed in lieu.
S. 868 [1] (Johnson of Colorado) and H. R. 1711 [1] (Crosser)—Dissemination of technological, scientific, and engineering information.	do	Public Law 776, Sept. 9, 1950.
H. R. 5074 (Vinson)—Directs NACA to establish and expand research facilities	Armed Services	Public Law 672, approved Aug. 8, 1950.
S. 3521 (Tydings) and H. R. 8532 (Vinson)—Authorize promotion of research and development in military departments. Related bill: S. 3507.	do	No action.

[1] Administration bill.
[2] Hoover Commission bill.
[3] Committee bill.

ACTION ON HOOVER COMMISSION REPORTS

1. GENERAL MANAGEMENT OF EXECUTIVE BRANCH

Action Required To Implement Recommendations

The Bureau of the Budget digest relating to effectuation of Hoover Commission Report No. 1 on General Management of the Executive Branch estimated that a total of 33 steps would be required to place into operation the 27 recommendations in this report. By action categories the numbered recommendations are as follows:

Substantive legislation.—Recommendation No. 4, authorizing the President to appoint agency heads, except the Civil Service Commission, without Senate confirmation; No. 5, changing the Council of Economic Advisers to a single-headed office; No. 6, placing Cabinet committees under full Presidential control; No. 15, decentralizing fiscal, personnel, and other services under common standards;[1] No. 19, authorizing heads to appoint bureau chiefs, and recommending proper consideration of the promotion of career employees; No. 21, using standard nomenclature;[1] and No. 25, standardizing field relations with State and local officials.[1]

Appropriation legislation.—Recommendations Nos. 1, 10, and 11,[2] adding to the Executive Office of the President an Office of Personnel, with the Chairman of the Civil Service Commission as Director, and a staff secretary (represents two action steps);[1] No. 9, urging adequate appropriations so the President may employ special advisers; No. 16, giving department heads adequate staff assistance; and No. 20, authorizing department heads to assign appropriated funds.

Reorganization plan.—Recommendation No. 2, restricting Executive Office to staff rather than operational authority; No. 3, authorizing the President to adjust office staff freely; No. 7, giving the President full control over composition of Cabinet-level committees; No. 12, grouping executive agencies into departments by major purposes; No. 13, grouping bureaus within departments by major purposes;[1] No. 14, clarifying the line of command from the President down; No. 17, reducing 65 departments and nonregulatory agencies by two-thirds through consolidation; No. 18, authorizing heads to reorganize their departments; and No. 26, expanding field service determinations by Public Buildings Administration.

Administrative action.—Recommendations Nos. 1, 10, and 11 (represents two action steps),[2] adding to the Executive Office of the President an Office of Personnel, with the Chairman of the Civil Service Commission as Director, and a staff secretary; No. 8, checking annually on continued need for each interdepartmental committee; No. 13, grouping like activities within departments;[3] No. 15, decentralizing general

[1] Listed also under Administrative Action.
[2] Recommendations Nos. 1, 10, and 11 require only two steps for implementation.
[3] Listed also under Reorganization Plans.

fiscal, personnel, and other services under common standards;[4] No. 16, giving department heads adequate staff assistance;[5] No. 21, using standard nomenclature;[4] No. 22, revising administrative districts; No. 23, pooling supply, motor, space, and other administrative services; No. 24, strengthening field reports and inspection; No. 25, standardizing field relations with State and local officials;[4] and No. 27, simplifying field instructions.

Legislative Action

In view of the termination of the Reorganization Act of 1945, which permitted the President to submit reorganization plans, it was necessary that the Eighty-first Congress give the President new authority to submit reorganization plans designed to expedite legislative action on the Hoover Commission recommendations. Accordingly, one of the first acts of the Eighty-first Congress was to approve the Reorganization Act of 1949, action on which is indicated below.

Public laws

Public Law 109, Reorganization Act of 1949.—Authorizes the President to submit reorganization plans to Congress. This recommendation was made to the Congress by the Hoover Commission on January13, 1949 (H. Doc. No. 37), to expedite action on its reports. It was followed by a message from the President of the United States, transmitted to Congress on January 17, 1949 (H. Doc. No. 142), pointing up the magnitude and importance of the program ahead as requiring able leadership, sound management, and good administrative machinery to carry out a vast responsibility. In his message, the President recommended that the Congress enact legislation to provide permanent reorganization procedure such as had been temporarily provided by the Reorganization Acts of 1939 and 1945.

One bill was introduced in the Senate (S. 526) and two in the House (H. R. 1569, and H. R. 2361). H. R. 2361 (Dawson) was reported from the House Committee on Expenditures in the Executive Departments on February 7, 1949 (H. Rept. No. 23), and passed the House the same day. The Senate Committee on Expenditures in the Executive Departments reported S. 526 (McClellan, Eastland, McCarthy, Hoey, and O'Conor) on April 7, 1949 (S. Rept. No. 232).

S. 526 was passed by the Senate on May 16; H. R. 2361 was then substituted for the Senate bill and sent to conference. A compromise was reached in conference relative to the method of disapproval of reorganization plans submitted to the Congress by the President, under which either the House or the Senate was granted the authority to disapprove a plan by a constitutional majority within 60 calendar days by a simple resolution of disapproval; i. e., by the affirmative vote of a majority of the authorized membership of that House. The compromise bill also incorporated Senate proposals granting the President authority to create new executive departments, eliminating all restrictive and limitation provisions, and limiting the life of the act to April 1, 1953.

The amended bill was approved in the House and Senate on June 16 and signed by the President on June 20, 1949, as Public Law 109, the Reorganization Act of 1949.

[4] Listed also under Substantive Legislation.
[5] Listed also under Appropriation Legislation.

Public Law 92, Travel Expense Act of 1949.—The task force report on Federal field service, accompanying Hoover Commission Report No. 1, recommended that "the present $6 per diem maximum travel allowance should be revised."

On January 13, 1949, the chairman of the Senate Committee on Expenditures in the Executive Departments introduced S. 352, to increase subsistence allowances from $6 to a maximum of $10 per day. A similar bill, H. R. 828 (Dawson), was introduced in the House on January 5. Consultations were held on S. 352 by the committee, in executive session, with representatives of the Bureau of the Budget and the General Accounting Office; and, on February 12, a committee print of a revised bill was considered. A copy was furnished to the House Committee on Expenditures in the Executive Departments at their request; the Senate print was then introduced as H. R. 3005 (Karsten) in the House on February 24.

The House committee reported H. R. 3005 on April 5 (H. Rept. No. 389), which passed the House on May 10, 1949. The Senate committee accepted the House amendment reducing the maximum per diem from $10 to $9, and reported the bill favorably on May 27 (S. Rept. No. 428), with perfecting amendments. The bill passed the Senate on June 2, and was approved by the President on June 9, 1949, as Public Law 92.

Public Law 673, authorizing the President to delegate certain functions.—This act accords with the Commission's general recommendations, that the structure of the executive branch should be simplified "to relieve the President of onerous administrative detail" (recommendation No. 17).

At the hearings it was emphasized that the proposed legislation was aimed to relieve the President of the need for signing numerous documents and other papers, many of which could be delegated to other officials of the Government. A Bureau of the Budget representative testified that about 1,100 statutory functions are vested in the President, about half of which have already been delegated. The report listed 33 functions vested by statute in the President which could be delegated by authority contained in the proposed legislation.

Because of this situation, H. R. 5526 (McCormack) was introduced in the House of Representatives on July 7, 1949, was reported favorably by the House Committee on Expenditures in the Executive Departments on July 28 (H. Rept. No. 1139), and passed the House on August 12, 1949. The Senate Committee on Expenditures in the Executive Departments reported the bill favorably on June 26, 1950 (S. Rept. No. 1867); it passed the Senate on July 26, and was approved as Public Law 673, on August 8, 1950.

Reorganization plans

Reorganization Plans Nos. 1–8 of 1949.—Under authority of Public Law 109, referred to above, the President submitted seven reorganization plans to the Congress on June 20, 1949 (H. Doc. No. 221). Subsequently, the House Committee on Armed Services, having failed to act on the Senate approved bill providing for unification of the military services as recommended by the Hoover Commission, the President also submitted plan No. 8, on July 18, 1949 (H. Doc. No. 262).

The eight individual reorganization plans are as follows: Plan No. 1, transferring Federal programs of Federal Security Agency to a new Department of Welfare; plan No. 2, transferring the Bureau of Employment Security to the Department of Labor; plan No. 3, centralizing functions of the Post Office Department in the Postmaster General with power to delegate; plan No. 4, transferring the National Security Council and the National Security Resources Board to the Executive Office of the President; plan No. 5, placing unified direction over executive affairs of United States Civil Service Commission in its Chairman; plan No. 6, vesting powers to appoint personnel and supervise activities of the United States Maritime Commission in its Chairman; plan No. 7, transferring Public Roads Administration to Department of Commerce; and plan No. 8, converting the National Military Establishment into the Department of Defense. All of the plans except Nos. 2 and 7 have some relevance to this report on general management.

A resolution of disapproval of plan No. 1 (S. Res. No. 147) was introduced by Senators Fulbright, Taft, and Hunt on June 29, 1949, and upon its adoption in the Senate on August 16, 1949, the plan was defeated.

A resolution of disapproval was also submitted on plan No. 2 (S. Res. No. 151) by Senators McClellan and Mundt, but the resolution was rejected in the Senate on August 17, 1949. The House of Representatives also voted down a similar resolution of disapproval (H. Res. No. 301) on August 11, the plan therefore becoming effective on August 20, 1949.

No resolutions of disapproval were introduced on Reorganization Plans Nos. 3 to 6, inclusive, all of which became effective on August 20, 1949.

A resolution of disapproval (S. Res. No. 155) was filed on plan No. 7 by Senator Hayden on August 15, 1949. The resolution was, however, rejected by the Senate on August 17, and the plan therefore became effective on August 20, 1949.

The substance of Reorganization Plan No. 8 was incorporated in Public Law 216 and a provision included in that act to make the plan inoperative.

Outlines of each of these plans are included in the appropriate chapters dealing with the Hoover Commission reports hereinafter in this report, except for No. 4, which follows.

Reorganization Plan No. 4 of 1949, transferring the National Security Council and the National Security Resources Board.—This plan (H. Doc. No. 225) transferred the National Security Council and the National Security Resources Board to the Executive Office of the President, and accords with recommendation No. 7 in this Hoover Commission report. A favorable committee report was submitted to the Senate on August 4 (S. Rept. No. 838) and, since no action was taken to disapprove the plan, it became effective on August 20, 1949.

Reorganization Plans Nos. 1 to 27 of 1950.—On March 13, 1950, of the second session of the Eighty-first Congress, the President submitted 21 additional reorganization plans (plans Nos. 1–21) under authority of the Reorganizaton Act of 1949; on May 9, four more, (plans Nos. 22, 23, 24, and 25); and on May 31 two more (plans Nos.

26 and 27); or a total of 35 plans during both sessions of the Eighty-first Congress.

Of the 27 Reorganization Plans of 1950, Nos. 1–13 and 25–27, summarized below, have special general management aspects because they centralize authority in old departments, commissions, or boards, or propose a new department: Plan Nos. 1 and 26, Department of the Treasury; plan No. 2, Department of Justice; plan No. 3, Department of the Interior; plan No. 4, Department of Agriculture; plan No. 5, Department of Commerce; plan No. 6, Department of Labor; plan No. 7, Interstate Commerce Commission; plan No. 8, Federal Trade Commission; plan No. 9, Federal Power Commission; plan No. 10, Securities and Exchange Commission; plan No. 11, Federal Communications Commission; plan No. 12, National Labor Relations Board; plan No. 13, Civil Aeronautics Board; and plan No. 25, the National Security Resources Board. Plan No. 26 is also listed above with plan No. 1 of 1950. Plan No. 27, creating a Department of Health, Education, and Security, had some relation to the general management report, as did plan No. 1 of 1949, but is covered in detail in the report on Hoover Commission Report No. 15, on Social Security, Education, and Indian Affairs.

A brief summary and discussion of each reorganization plan is included in this report under the appropriate Hoover Commission report, with the exception of plans Nos. 2 and 25, which are set forth in this part of the report. Plan No. 2, dealing with the Department of Justice, is so included because the Hoover Commission made no report on that Department. Plan No. 25, dealing with the National Security Resources Board, is also covered because it is directly related to the question of general management.

The accompanying tabulation presents a condensed summary of Senate action on all reorganization plans during both sessions of the Eighty-first Congress. As it indicates, a total of 35 reorganization plans was submitted (8 in 1949, and 27 in 1950), of which 8 were rejected by Congress, 1 was effectuated by other legislation, and 26 became effective.

The eight plans rejected were No. 1 of 1949 (Department of Welfare), and seven plans of 1950, as follows: No. 1 (Department of the Treasury), No. 4 (Department of Agriculture), No. 7 (Interstate Commerce Commission), No. 11 (Federal Communications Commission), No. 12 (Abolition of General Counsel of National Labor Relations Board), No. 24 (Transfer of RFC to Department of Commerce), and No. 27 (Department of Health, Education, and Security).

There are, however, two duplications on this list, as follows: (*a*) No. 1 of 1949 and No. 27 of 1950, which are two rejected plans dealing similarly with a new Department of Welfare, and (*b*) No. 1 of 1950, rejected, which was counterbalanced by No. 26 of 1950, approved, which dealt similarly with reorganization of the Treasury Department. If these duplicates are eliminated, it may be stated that only 6 of the total of 35 reorganization plans were rejected by Congress.

Of the remaining 27 plans which went into effect, plan No. 8 of 1949, which provided for reorganization of the National Military Establishment, became unnecessary because covered in Public Law 216. The other 26 plans became effective on the following dates: 6 plans (Nos. 2 through 7 of 1949) on August 20, 1949; 1 plan (No.

25 of 1950) on July 9, 1950; 1 plan (No. 18 of 1950) on July 1, 1950; 1 plan (No. 26 of 1950) on July 31, 1950; and 2 plans (Nos. 22 and 23) on September 7, 1950; and the other 15 plans on May 24, 1950. All plans went into effect 60 days of continuous session of Congress after submission by the President unless disapproved by Congress before the end of that period; the exceptions were plans Nos. 22 and 23 of 1950, in connection with which 120-day periods were stipulated; plan No. 18 of 1950, for which a 110-day period was applied; and 15 plans of 1950 (Nos. 2, 3, 5, 6, 8–10, 13–17, and 19–21) which went into effect on May 24, 1950, after 71 days, because of an intervening recess of the Congress.

Action on Reorganization Plans, 81st Cong.

REORGANIZATION PLANS OF 1949

Plan No.	Title	Senate resolution of disapproval, No.	S. Rept. No.	Senate vote on resolution of disapproval		
				Yeas	Nays	Date
1	Department of Welfare	147	851	60	32	Aug. 16, 1949
2	Bureau of Employment Security	151	852	[1] 32	57	Aug. 17, 1949
3	Post Office Department	None	837			
4	National Security Council and National Security Resources Board	None	838			
5	Civil Service Commission	None	839			
6	Maritime Commission	None	840			
7	Public Roads Administration	155	927	[1] 40	47	Aug. 17, 1949
8	National Military Establishment [2]	None	None			

REORGANIZATION PLANS OF 1950

1	Department of Treasury	246	1518	65	13	May 11, 1950
2	Department of Justice	None	1683			
3	Department of Interior	None	1545			
4	Department of Agriculture	263	1566	[3]		May 18, 1950
5	Department of Commerce	259	1561	[1] 29	43	May 23, 1950
6	Department of Labor	None	1684			
7	Interstate Commerce Commission	253	1567	66	13	May 17, 1950
8	Federal Trade Commission	254	1562	[1] 34	37	May 22, 1950
9	Federal Power Commission	255	1563	[1] 37	36	Do.
10	Securities and Exchange Commission	None	1685			
11	Federal Communications Commission	256	1564	50	23	May 17, 1950
12	National Labor Relations Board	248	1516	53	30	May 11, 1950
13	Civil Aeronautics Board	None	1686			
14	Labor Standards Enforcement	None	1546			
15	Alaska and Virgin Islands Public Works	None	1547			
16	Assistance to School Districts and Water Pollution Control	None	1548			
17	Advance Planning and War Public Works	271	1676	[1] 29	43	May 23, 1950
18	Building and Space Management Functions	270	1675	[1] 7	69	Do.
19	Employees' Compensation Functions	None	1549			
20	Statutes at Large and Other Matters	None	1550			
21	Maritime Commission	265	1674	[1] 14	59	May 19, 1950
22	Federal National Mortgage Association	299	1936	30	43	July 6, 1950
23	Loans for Factory Built Homes	None	1870			
24	RFC to Department of Commerce	290	1868	[3]		July 6, 1950
25	National Security Resources Board	None	None			
26	Department of the Treasury [4]	None	1869			
27	Department of Health, Education, and Security [5]	302	1943	[6]	[6]	[6]

[1] Senate rejects resolution by less than the necessary 49 votes.
[2] Superseded by Public Law 216, Aug. 10, 1949.
[3] Senate approves resolution by voice vote.
[4] Same as plan No. 1 of 1950, excluding Comptroller of the Currency.
[5] Designed to overcome objections to plan No. 1 of 1949.
[6] House adopts disapproving H. Res. No. 647 by vote of 249 to 71 on July 10, 1950.

Reorganization Plan No. 2 of 1950, Department of Justice.—In accord with the content of plans Nos. 1–6 of 1950 as a whole, and with Hoover Commission recommendations, plan No. 2 transfers—

to the Attorney General all functions of all other officers of the Department of Justice and all functions of all agencies and employees of such Department.

This centralization of authority is not applied, however—

to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners, nor to the functions of Federal Prison Industries, Inc., of the Board of Directors and officers of the Federal Prison Industries, Inc., or of the Board of Parole.

Plan No. 2 authorizes the Attorney General to delegate functions, to transfer "records, property, personnel, and unexpended balances" of funds required by reorganization, and to appoint an Administrative Assistant Attorney General under the classified civil service, with the approval of the President, at a salary of $14,000 per year. The plan also authorizes the President, by and with the consent of the Senate, to appoint an additional Assistant Attorney General in place of the office of Assistant Solicitor General which is abolished. The title of "the assistant to the Attorney General" is changed to "Deputy Attorney General."

By vesting in the Attorney General all functions of the Department of which he is the head (5 U. S. C. 291), plan No. 2 clarifies his authority with respect to a limited number of departmental functions for which authority is placed elsewhere by the statutes. There are, for example, certain functions placed by statute in the Commissioner of Immigration and Naturalization, and certain customs matters as to which the Assistant Attorney General is charged by name with the performance of statutory duties, which the plan now vests in the Attorney General, with authority to delegate.

No resolution of disapproval was introduced on this plan. A favorable report was submitted to the Senate (S. Rept. No. 1683) on May 19, and it became effective on May 24, 1950.

Reorganization Plan No. 25 of 1950, transferring functions of the National Security Resources Board to its Chairman, and making NSRB advisory.—This plan promotes more effective security resources planning; transfers the functions of the National Security Resources Board (NSRB) to its Chairman, with full power of delegation by him; makes the NSRB advisory to the Chairman; and adds a Vice Chairman of the Board, to be appointed by the President from civilian life, with the consent of the Senate, at an annual salary of $16,000.

The President's message of transmittal (H. Doc. No. 590, May 9, 1950) states that the role of NSRB is to provide staff assistance in "the coordination of military, industrial, and civilian mobilization," as Congress recognized when it approved plan No. 4 of 1949, which transferred NSRB to his Executive Office. The message indicates that this high-level interdepartmental committee which includes seven Cabinet Secretaries (of State, Treasury, Defense, Agriculture, Commerce, Interior, and Labor Departments) cannot "possibly supervise or approve the Board's extensive and detailed activities (although they) must accept ultimate responsibility"; urges making the Board advisory, as was done in 1949 with both Munitions and Research Development Boards; and proposes a Vice Chairman to help carry the heavy workload.

The plan became effective on July 9, 1950, inasmuch as no resolution of disapproval was introduced in either the House or the Senate. There was some opposition in committee and therefore no favorable report was submitted as was done in regard to other plans against which no resolutions were filed.

Other legislative action

S. 942 (McClellan) and H. R. 2613 (Dawson), General Management Act of 1949.—In response to a request from the chairman, the legal counsel for the Hoover Commission submitted a draft of a bill designed to carry out the recommendations contained in Report No. 1 on General Management of the Executive Branch. This draft bill was filed in the Senate (S. 942) by Senator McClellan on February 14, 1949. A companion bill, H. R. 2613, was introduced in the House on February 10, 1949.

S. 942 would establish principles and policies to govern generally the management of the executive branch of the Government. It declares that the executive agencies of the Government exist in order to enable the responsibility of the President, as set forth in the Constitution, to be discharged efficiently, and classifies such agencies as principal or subordinate; creates in the Executive Office of the President the Office of Personnel, the Office of Staff Secretary, and the Office of the Economic Adviser (transfers to it the functions of the Council of Economic Advisers, except making an annual report, and abolishes the Council). It also provides that the White House office shall be in the Executive Office of the President, that the National Security Council and the National Security Resources Board shall be constituent units of the same, that the Bureau of the Budget shall be known as the Office of the Budget and shall continue as an agency in the Executive Office of the President. Finally, S. 942 provides for nomenclature of organization of executive agencies, for method of appointment of subordinate executive officers, and for delegation of authority.

Many of the recommendations contained in Hoover Commission Report No. 1, as well as certain of the provisions of S. 942, have been effectuated through reorganization plans and by legislative action in Congress. It was therefore the consensus of the Committee on Expenditures in the Executive Departments, to which S. 942 was referred, that action on any comprehensive bill to carry out the major recommendations of the Commission in this area should be withheld until complete information was available relative to legislation enacted by Congress and any other actions taken in this field. Analysis of that information will assist in the preparation of further legislation required to implement recommendations not yet approved. After preliminary consideration of the proposed legislation, the committee postponed action on the bill. No action was taken on H. R. 2613 in the House.

Administrative Action

The Hoover Commission recommended that like activities within each department be grouped into bureaus and that department heads be given adequate staff assistance. Legislation and reorganization plans granted the authority to group bureaus by major purpose to the heads of the Departments of State, Treasury (except Comptroller of the Currency), Justice, Post Office, Interior, Commerce, and Labor; they also authorized additional staff assistance to those agency heads. The reorganization plan (No. 4 of 1950) which would have granted similar authority and additional staff assistance to the Secretary of Agriculture was disapproved by Congress.

The State Department reorganization of 1949 and the Post Office reorganization of 1950 completely implement the recommendation for grouping like activities in those Departments. The situation already exists to a large degree in other departments, but additional changes will have to be made in several of the departments before this recommendation is completely in effect. Further administrative action on providing adequate staff assistance is dependent on appropriations in those agencies where additional staff resources are still needed.

In the area of the Federal field service the Commission recommended that the location of administrative regions and their headquarters be more nearly comparable geographically, that pooled administrative services be more widely used, that field manuals and instructions be simplified, and that systems for supervision and inspection of field operations be strengthened.

A study of the Federal field service, financed by the President's management fund, is being conducted by a private firm of management engineers to explore methods of extending the Commission's management philosophy to the field service generally. A substantial number of agencies, including State, Treasury, Interior, Commerce, and Labor Departments, the Housing and Home Finance Agency, and the General Services Administration, are moving ahead in meeting the above recommendations on an agency basis. For example, the Federal Security Agency has set up a unified field organization with pooled administrative services; the State Department is concentrating overseas administrative services on a country or regional basis; the Interior Department is making a study which is expected to lead to an integrated field service for the Department; the General Services Administration is setting up an integrated field service; the Housing and Home Finance Agency is simplifying field instructions; and the Civil Service Commission has revised the Federal Personnel Manual.

One of the primary purposes of Executive Order 10072 is the establishment of a systematic review system in each agency which will strengthen supervision and inspection of field establishments throughout the executive branch. Under this order, which is supported by title X of the Classification Act of 1949, each agency head is required to set up a plan for periodic review of programs and operations to evaluate their effectiveness and to schedule action to achieve greater efficiency and economy when opportunity for such action is identified in the review process. Agency progress under the order is reviewed by the Bureau of the Budget and the President's Advisory Committee on Management Improvement.

The Commission recommended the decentralization of fiscal, personnel, and other services under common standards. This recommendation is generally dependent on legislation prior to administrative action. In the personnel field it has been partially carried out by decentralizing job classification to the agencies under the Classification Act of 1949. Recruiting and examining activities are also substantially decentralized to agency boards of expert examiners under Civil Service Commission standards.

The joint accounting program of the General Accounting Office, the Treasury Department, and the Bureau of the Budget includes this objective; and substantial progress has been made in decentralizing accounting in a number of agencies. The Budget and Accounting

Procedures Act of 1950 fully implements this program and provides authority to modernize Federal fiscal policies. The Post Office Financial Control Act of 1950 will make it possible to carry out this recommendation in the accounting program for that agency. Greater agency responsibility in the budgeting field has been achieved under the procedure of giving agencies budget ceilings prior to the submission of budget estimates.

In the general services area, substantial progress is being made toward complete implementation of the Commission's recommendations under Public Laws 152 and 754, Eighty-first Congress, which centralized procurement, space, and records responsibilities in the General Services Administration and authorized the Administration to set standards and review agency operations. Other legislative action in the personnel field will make it possible to effectuate additional administrative action over a period of time toward putting this recommendation into effect.

The Commission recommended that the Executive Office make an annual review of the necessity for each interdepartmental committee and terminate those whose work is completed. The purpose of this recommendation is being accomplished through reviews by agencies having primary responsibility in the areas of committee activity.

The recommendation that internal operating units follow a standard nomenclature is substantially in effect in most agencies and is being followed in the transfer of functions and establishment of new agencies under reorganization plans and legislation. In some cases nonstandard nomenclature is prescribed by law.

There has been no action to date on the recommendations to create an Office of Personnel in the Executive Office and to establish the post of staff secretary to the President.

Summary

It will be noted from the foregoing that certain of the recommendations made by the Hoover Commission in its report on general management, such as recommendations Nos. 12 and 13, urging the regrouping of like activities between and within departments; No. 15, urging greater decentralization of accounting, budgeting, and recruiting under simplified standards and supervision; and No. 21, providing for standard nomenclature for the internal operating organizations of the departments, are duplicated insofar as every department and agency of the Government is concerned. After the adoption of reorganization plans submitted to the Congress during the Eighty-first Congress, the administrative action needed for the reorganization of departments and agencies therefore require a greater number of steps to activate completely the recommendations in this report.

In addition, there has been a number of direct legislative actions which have accomplished the same objectives, including the duplications of those recommendations in the separate reports on certain departments. For instance, with relation to the report on foreign affairs, Public Law 73, which strengthens and improves the organization and administration of the Department of State, centralizes in the Secretary of State authority for the conduct of foreign affairs previously vested by statute in subordinates. Because that act also activates other recommendations, it is included in the discussion of the Hoover Commission report on foreign affairs.

Similar provisions are contained in Public Laws 152 and 216, which also vest authority in the General Services Administrator and the Secretary of Defense, respectively, thus duplicating the implementation of recommendations in the report on general management. These reports are included under the separate reports on the Office of General Services (supply activities) and on the National Security Organization.

The question is raised as to the percent of implementation when general recommendations, applicable to a number of agencies and departments, are duplicated in separate reports. In some instances no direct action has been taken, as in the Federal Security Agency and the Department of Agriculture, when the Congress for policy reasons rejected reorganization plans which would have effectuated recommendations relating to these agencies. It is difficult to make a definite determination as to the actual implementation of a recommendation in instances where they are partially activated and partially rejected.

Accepting this premise, an effort has been made to evaluate actions taken toward effectuation of recommendations in this report, which indicates that recommendations Nos. 3, 4, 6, and 12 through 27 are implemented either wholly or partially under action outlined in this or in succeeding reports. As an illustration, recommendation No. 23, pooling supply, motor, space, and other administrative services, and No. 26, expanding field service administration by Public Buildings Administration, were incorporated in Public Law 754, outlined in the report on Office of General Services. Other general recommendations, such as the revitalization and strengthening of the Bureau of the Budget, have been accomplished under Public Law 784, the Budget and Accounting Procedures Act of 1950, and are covered in the report on budget and accounting.

This leaves a residue of recommendations in the report on general management, on which no action was taken in the Eighty-first Congress—recommendations Nos. 1 to 5, 7 to 11, inclusive, and No. 17. It will be noted, however, that 13 of the 27 recommendations may be fully or partially activated through administrative action without further legislative authority, some of which have already been carried out. Of this latter group, this committee takes particular gratification from the report in the preceding section hereof by the Bureau of the Budget on the effect given in most agencies to recommendation No. 21 for standardization of nomenclature, the direct culmination of an undertaking by the staff of this committee during the first session of the Eightieth Congress. As a result of an organizational study then completed, this committee issued Senate Report No. 243, June 6, 1947, directing attention to the multiplicity of organizational names in use throughout the executive branch of the Government and offering concrete recommendations for attaining uniformity therein. Subsequently, this committee was asked to make its findings available to the Hoover Commission, by which they were adopted virtually without alteration and appear as recommendation No. 21 of the Report on General Management of the Executive Branch. The remainder, on which no action has been taken and which would require some further legislative authority from Congress, includes only Nos. 1, 4, 5, and 6, with recommendations Nos. 2, 3, 7, and 17 depending on the submission of additional reorganization plans.

2. PERSONNEL MANAGEMENT

Action Required To Implement Recommendations

The Hoover Commission made 29 major recommendations with respect to personnel management, which, together with subdivisions thereof, total 45 specific recommendations in all. It has been estimated by the Bureau of the Budget that full effectuation ultimately will have required 34 separate steps. By category of execution, the recommendations are as follows:

Substantive legislation.—Recommendations No. 2 (b), for broader discretion for appointing officers in personnel selection; Nos. 3 (a) and 16, for enactment of comprehensive pay policy in executive branch; No. 3 (c), for rewards for supervisors reducing Federal personnel; Nos. 3 (d) and 19, for relation of postal, clerical, subprofessional, and "blue collar" compensation to locally prevailing pay; No. 3 (e), that exceptionally qualified top civil-service employees be more adequately compensated; Nos. 4 (c) and 15, for a training policy for most promising executive-branch career employees; Nos. 4 (e) and 22, for substitution of ability and service record rating for present efficiency rating system; Nos. 5 (a), 23 (a) and 23 (b), for better reduction in force legislation; No. 7, prescribing ratings for civil-service applicants; No. 8, for certain preferential treatment for veteran applicants; No. 11, that the salary ceiling of $10,330 per annum be increased; No. 17, relating to general pay legislation; and No. 18, relating to establishment by the Civil Service Commission of pay scales and job-evaluation standards.

Appropriation legislation.—Recommendations Nos. 4 (b) and 14, that the Civil Service Commission be authorized to provide interagency promotional and transfer opportunities.

Reorganization plan.—Recommendations Nos. 1 (b) and 26, that the Chairman of the Civil Service Commission be vested with full administrative responsibility; and No. 3 (b), for agency evaluation of positions for pay purposes.

Administrative action.—Recommendations No. 1 (a), that the Civil Service Commission place primary emphasis on staff functions; No. 1 (c), that all top management staffs include a director of personnel; Nos. 1 (d) and 27, that the Civil Service Commission develop operation standards for personnel offices; No. 2 (a), that agencies have primary responsibility for employee recruitment and examination; No. 2 (c), for programs to attract high-caliber young people for subordinate professional, scientific, technical, and administrative positions; Nos. 4 (a) and 12, for programs for promotion of career employees; Nos. 4 (b) and 14, that the Civil Service Commission be authorized to inaugurate interagency promotional and transfer opportunities (duplicated under Appropriation Legislation); Nos. 4 (d) and 21, for employee participation in personnel policy and practices formulation; Nos. 5 (b) and 24, for more practical method of separating inefficient employees; No. 6, for agency recruitment, examination, and

appointment of employees for high-level and certain other positions; No. 9, for veteran-recruitment program; No. 10, for recruitment of young people for junior professional, scientific, and administrative positions; No. 13, for identification of administrative positions; No. 20, for annual review by Civil Service Commission of Nation-wide Federal pay rates and appropriate subsequent adjustment; No. 23 (c), for preferential treatment of laid-off career employees with respect to other Federal positions; No. 25, relating to periodic salary increases; No. 28, that personnel officers emphasize the advising of operating officials; and No. 29, that recognition be given to the advice of personnel directors in the development of management policy.

Implementation of these recommendations has been accomplished, or has been proposed, as follows:

Legislative Action

Public laws

Public Law 2, to increase rates of compensation of the President, Vice President, Speaker of the House of Representatives, and heads and assistant heads of executive departments and independent agencies.—Identical bills, S. 103 and H. R. 808, were introduced at the beginning of the first session of the Eighty-first Congress, sponsored jointly by Senators Lucas, O'Conor, Flanders, and Baldwin in the Senate, and by Representative Miller in the House, providing for increased rates of compensation for the President, Vice President, Speaker of the House of Representatives, and heads and assistant heads of executive departments and independent agencies. The Senate Committee on Post Office and Civil Service reported S. 103 favorably on January 11, 1949 (S. Rept. No. 1).

The section dealing with increased pay for Government officials was stricken from the bill on the floor of the Senate and a committee bill, S. 498, was introduced to incorporate the stricken sections for later consideration by the Congress. The first section of the bill, relating to increases in pay of the President, Vice President, and Speaker of the House, passed the Senate on January 13, the House on January 17, and became Public Law 2 on January 19, 1949, implementing Hoover Commission recommendations Nos. 3 and 11.

Public Law 359, Executive Pay Raise Act.—S. 498, which incorporated sections of S. 103 previously stricken by Senate action, was filed in the Senate on January 13, 1949, and reported favorably by the Committee on Post Office and Civil Service on March 18, 1949 (S. Rept. No. 130). A companion bill, H. R. 1689, was reported favorably by the House Committee on Post Office and Civil Service on May 9, 1949 (H. Rept. No. 535), passed by the House, with floor amendments to include certain specified Federal administrative officials at increased salary level, on July 8, 1949, and placed on the Senate Calendar on July 11, 1949.

A report on H. R. 1689 was submitted by the Senate Committee on Post Office and Civil Service on August 9, 1949 (S. Rept. No. 882), recommending salary increases up to a maximum of $25,000 for the heads of each executive department, the Secretary of Defense, and the Administrator for Economic Cooperation. The compensation of other administrative officials was placed at levels ranging from

$15,000 to $20,000 per annum, based on the importance of the functions performed by the specified executive officer.

An amendment, sponsored by 33 Senators, was adopted on the floor of the Senate reducing the rate of basic compensation of the heads of executive departments and the Secretary of Defense to $22,500, with corresponding adjustments for Under Secretaries, Assistant Secretaries, heads of agencies, boards, commissions, bureaus, etc., ranging from $20,000 down to $14,000. The bill (H. R. 1689) was passed by the Senate as amended on September 29 and sent to conference. S. 498 was indefinitely postponed.

The conferees accepted the Senate amendment as regards compensation for Cabinet officers and for certain other policy-making officials. In some instances, however, the amount was raised from $15,000 to $17,500 (for Under Secretaries or equivalent positions), and in others compensation was adjusted from $15,000 to $16,000 (for members of commissions, boards, and heads of specified agencies). Other positions covered in the bill were retained at the Senate figure of $14,000 for heads of bureaus, or other components within a Federal establishment, except for positions of relatively more importance, which were raised to $15,000.

The conference report (H. Rept. No. 1411) was adopted by the House on October 13, and in the Senate on October 14. It was approved by the President on October 15, 1949 (Public Law 359). The act conforms to recommendations Nos. 3 (a), 11 (a), and 16 of the Hoover Commission.

Public Law 429, Classification Act of 1949.—S. 1762, the Position-Classification and Pay Act of 1949, an administration measure, was introduced in the Senate on May 4, 1949, and referred to the Committee on Post Office and Civil Service. A subcommittee held hearings on five bills pertaining to the adjustment of salaries of postal employees and employees under the Classification Act of 1923, as amended, during May.

The bill was reported favorably by the Senate Committee on Post Office and Civil Service (S. Rept. No. 847) in the form of a committee bill (S. 2379) on August 5, 1949. S. 2379 was passed by the Senate on September 30, with an amendment, establishing ceilings at $12,500 for classified positions in lieu of $15,000 as reported, to conform to reduced maximum salary levels established in Public Law 359, the Executive Pay Raise Act, listed above.

H. R. 5931, the Classification Revision Act of 1949, reported on August 15 (H. Rept. No. 1264), and passed by the House on September 28, was then substituted, incorporating the above and other amendments adopted on the floor of the Senate, passed by the Senate, and sent to conference on September 30.

A conference report (H. Rept. No. 1447) was filed on October 15, in which the House receded from its disagreement to the amendment of the Senate and, in lieu of the matter proposed to be inserted by the Senate amendment, adopted new language citing the act as the "Classification Act of 1949."

The conference report (H. Rept. No. 1447) was adopted in the House of Representatives on October 17, and in the Senate on October 18, and was approved on October 28, 1949, Public Law 429, thus conforming generally to Hoover Commission recommendations Nos. 2, 3, 4, 5,

7, 11, 12, 13, 14, and 16 through 25. Also, the act is consonant with the over-all program of the Commission.

Public Law 167, creating professional and scientific positions at increased rates of pay.—Companion bills S. 721 and H. R. 20 were introduced in the Senate by Senator Baldwin, and the House of Representatives by Representative Lyle, on March 8, to authorize the creation of 55 professional and scientific positions in the National Military Establishment and in the headquarters and research stations of the NACA, for research relating to national defense, military and naval medicine, etc., specifying that there shall be 13 such positions each in the Departments of the Army, the Navy, and the Air Force; and to authorize 6 additional positions of the same type in the National Military Establishment, and 10 in the headquarters and research stations of the National Advisory Committee for Aeronautics. Recommendation No. 3 (e) suggests that—

> immediate consideration should be given to providing adequate salaries for top civil-service employees with exceptional professional, scientific, technical, and administrative qualifications.

These bills provide for partial implementation of this recommendation and of recommendation No. 14 relating to transfers of such personnel.

H. R. 20 was reported favorably by the House Committee on Post Office and Civil Service on February 17 (H. Rept. No. 147), and passed the House on March 7. The Senate Committee on Post Office and Civil Service, to which the bill was referred, reported it favorably on May 4 (S. Rept. No. 330). It passed the Senate on July 6 and became law on July 13, 1949 (Public Law 167). No action was taken on S. 721.

Public Law 472, authorizing professional personnel of the National Advisory Committee for Aeronautics to attend accredited graduate schools for research and study without loss of pay or leave.—S. 1393, designed to promote the national defense and to contribute to more effective aeronautical research by authorizing professional personnel of the NACA to attend accredited graduate schools for research and study, which is closely related to recommendation No. 2 (c), was introduced in the Senate by Senator Tydings on March 24, 1949, and is in conformity with recommendation No. 15, providing for the conduct of a training program for civilian employees. The Commission stressed throughout its report the need for training technical personnel in order to promote greater efficiency in the Government's operation.

S. 1393 was reported favorably to the Senate on May 26, 1949, by the Senate Committee on Armed Services. On June 7, a similar bill (H. R. 3946, introduced by Representative Vinson) was approved by the House Committee on Armed Services (H. Rept. No. 754), passed the House June 20, 1949 and the Senate on February 1, 1950 and was approved as Public Law 472 on April 11, 1950. S. 1393 was indefinitely postponed.

Public Law 500, providing a uniform system for salary increases for the postal service.—H. R. 6553 was introduced in the House on January 3, 1950, by Representative Murray of Tennessee. This bill provides for the promotion of carriers in certain rural-delivery grades in relation to years of service within the Post Office Department. The bill was reported favorably by the House Committee on Post Office and Civil Service January 30, 1950 (H. Rept. No. 1550), and passed the House

on February 6, 1950. It was reported in the Senate on March 10, 1950 by the Post Office and Civil Service Committee (S. Rept. No. 1334), and passed the Senate in amended form on April 19, 1950. It was approved on May 3, 1950, as Public Law 500.

This act is in implementation of Hoover Commission recommendations Nos. 4 and 17, relating to establishment of definite programs for promotion and salary increases.

Public Law 733, providing for suspension and discharge of Federal personnel.—H. R. 7439, introduced by Representative Murray of Tennessee on February 27, 1950, provided for granting to various agency heads final authority to remove civilian personnel in the interest of national security, in partial conformance with recommendations Nos. 5 and 24 of the Hoover Commission. Passed House July 12, 1950 (H. Rept. No. 2330). Reported with amendments in Senate July 25, 1950 (S. Rept. No. 2158). Passed Senate, amended, August 9, 1950. House agreed to Senate amendments August 15, 1950. Approved August 26, 1950, as Public Law 733.

Public Law 873, Performance Rating Act of 1950.—This law arose directly from H. R. 7824, introduced on March 23, 1950, by Representative Murray of Tennessee, and provides for the establishment by each agency of performance-rating plans for evaluating the work of personnel, including a system of rating such evaluation, thus implementing Hoover Commission recommendations Nos. 3 and 18. H. R. 7824 was reported by the House Post Office and Civil Service Committee May 29, 1950 (H. Rept. No. 2162); passed House June 19, 1950; and was reported in Senate by Post Office and Civil Service Committee on August 10, 1950, (S. Rept. No. 2265). The bill passed the Senate, amended, August 23, 1950, and subsequently Conference Report No. 3125 was filed on September 21, 1950. Both Houses agreeing thereto, the bill was approved on September 30, 1950, as Public Law 873.

Another bill, H. R. 7264, introduced on February 13, 1950, by Representative Murray of Tennessee, remains without action.

Reorganization plans

Reorganization Plan No. 5 of 1949.—On June 20, 1949, the President transmitted to the Congress Reorganization Plan No. 5 of 1949 on the Civil Service Commission, under authority granted by the Reorganization Act of 1949, which was referred to the Committee on Expenditures in the Executive Departments for consideration. The plan provided that the Chairman of the Civil Service Commission, and the Executive Director to be appointed by him under civil-service rules, shall have charge of day-to-day administrative activities, including application of all rules and regulations. It reserves to the full Commission deliberative, regulatory, and appellate functions, such as promulgating rules and regulations. This division of responsibilities is in accord with Commission recommendations.

The plan leaves to the full CSC final authority to formulate rules and regulations, act on appeals, administer political-activity statutes, make investigations, and recommend improvements to the President. The Commission is to appoint all direct assistants, and to approve appointments of regional directors and of heads of administrative units on recommendation of the Chairman. The plan concentrates

operating responsibility and accountability in the Chairman who appoints and directs the staff and administers CSC affairs.

Plan No. 5 is in accord with recommendations No. 1 (b) and No. 26 of the report on personnel management, which provide that—

> The Civil Service Commission should be reorganized to vest in its Chairman the responsibility for the administration of its work (No. 1 (b))—

and that—

> Full responsibility for the administrative direction of the work of the Civil Service Commission should be vested in the Chairman of the Commission (No. 26).

No resolution of disapproval was filed against the plan in the Senate, and the Committee on Expenditures in the Executive Departments submitted a favorable report on August 4, 1949 (S. Rept. No. 839). The plan became effective on August 20, 1949.

Other legislative action

S. 660 and H. R. 2446, in-force separations of veterans and career employees.—S. 660 was introduced in the Senate on January 27, 1949, by Senator Langer, and a companion bill, H. R. 2446, was filed in the House by Representative Klein on February 7, 1949, and referred to the respective Committees on Post Office and Civil Service of the Senate and the House.

S. 660 was reported to the Senate on July 15, 1949 (S. Rept. No. 691). It provided that, in any reduction in civilian personnel of any Federal agency, the statutory preference to employees with higher efficiency ratings shall apply only as against competing employees with less than 15 years of total service. There was some question raised in connection with the reporting of this bill as to the status of disabled veterans in the Government service and, therefore, the following bill, S. 1937, providing for the setting up of a top preferential retention classification of seriously disabled veterans was ordered reported to supplement S. 660.

No action was taken in the House on H. R. 2446.

S. 1937, to preserve the equity of permanent classified civil-service employees.—This bill was introduced in the Senate on May 25, 1949, by Senator Humphrey, reported favorably by the Committee on Post Office and Civil Service on July 15 (S. Rept. No. 692), and passed the Senate on August 9, 1949. It provides for the retention of full veterans' preference for veterans with a 60-percent service-connected disability with an efficiency rating of good or better.

This bill, and the two immediately preceding, S. 660 and S. 1937, relate to recommendations Nos. 5, 8, and 23, involving veterans' preference and the retention in service of the best-qualified career employees.

S. 2111 (H. R. 5181), Federal Personnel Policy Act of 1949.—This bill was submitted to the Chairman of the Committee on Expenditures in the Executive Departments by draftsmen for the Hoover Commission at the committee's request, and is designed to carry out the Commission's recommendations in the report on personnel management. Since the matter did not come within the jurisdiction of this committee, copies of the bill were transmitted to Senator J. Allen Frear, chairman of a special subcommittee appointed by the Committee on Post Office and Civil Service to consider legislation relating to the Hoover Commission report.

Informal hearings were held on this draft, and Senator McCarthy introduced a bill, S. 2111, incorporating language of the original draft on June 20, which was sent to the Committee on Post Office and Civil Service and then referred to the subcommittee.

Action on this bill was postponed indefinitely, being superseded by S. 3830 and H. R. 7824, action on which is outlined below.

S. 3050 (H. R. 7185), providing for certain veterans' preference.—These bills, introduced in the Senate by Senator Johnston of South Carolina, February 16, 1950, and in the House by Representative Ramsey, February 7, 1950, would direct that certain civil-service examinations be restricted to veterans, and thus are in conformance with recommendation No. 9 of the Hoover Commission. S. 3050 reported in Senate April 14, 1950 (S. Rept. No. 1488). H. R. 7185 was reported favorably on March 13, 1950 (H. Rept. No. 1758), and passed House May 1, 1950.

S. 2777, S. 2779, and S. 2782, providing for uniform promotions in postal service.—S. 2777 and S. 2779 were introduced in the Senate by Senator Johnston of South Carolina, on January 4, 1950, and S. 2782 by Senator Langer on January 5, 1950. These bills implement recommendations Nos. 4 and 14 of the Hoover Commission by providing for certain uniform salary and grade promotions for post-office personnel. Referred to the Committee on Post Office and Civil Service. No action taken.

H. R. 6847, relating to reduction in Federal employment.—This bill, introduced by Representative Walsh, January 18, 1950, would establish a Civil Service Commission register of permanent Federal employees displaced or about to be displaced in personnel reductions. It would require that such personnel be given first consideration in filling subsequent vacancies. The bill implements recommendations Nos. 5 and 23 of the Hoover Commission. Referred to Post Office and Civil Service Committee. No action taken.

H. R. 7261, establishing a Board of Fair Promotions.—This bill, introduced by Representative Lane, February 13, 1950, would establish within the Civil Service Commission a Board of Fair Promotions to which all agencies would submit promotion policy statements conforming to established standards. The bill is in conformance with recommendation No. 4. Referred to the Post Office and Civil Service Committee. No action taken.

S. 3830 (H. R. 8925), Federal Personnel Recruitment Act of 1950.—S. 3830, introduced in the Senate by Senator Frear, June 26, 1950, and H. R. 8925, introduced in the House by Representative Murray, June 22, 1950, would direct agencies to devise plans for recruiting their own personnel, such plans to be subject to approval by the Civil Service Commission, thus conforming to Hoover Commission recommendation No. 2. S. 3830 referred to Post Office and Civil Service Committee where no action has been taken. H. R. 8925 reported to House July 20, 1950 (H. Rept. No. 2698).

H. R. 9159, amending Civil Service Retirement Act of 1930.—This bill, introduced by Representative Fulton, July 18, 1950, would provide method of equitable reduction in force by making available additional opportunities for optional retirement, thereby in implementation of Hoover Commission recommendation No. 23. Referred to Post Office and Civil Service Committee. No action taken.

H. R. 7716, providing for termination of certain Federal personnel.—This bill, introduced by Representative Ellsworth, April 21, 1950, would establish under the Bureau of the Budget a system to accomplish economy in personnel recruitment, manpower utilization, and effectiveness, on an interdepartmental basis. Implements recommendation No. 27 of the Hoover Commission, but substitutes the Bureau of the Budget for the Civil Service Commission as the agency to control the plan. Referred to the Post Office and Civil Service Committee where no action has been taken.

Administrative Action

In its report on personnel management, the Hoover Commission recommended that the Civil Service Commission place primary emphasis on staff functions, and that primary responsibility for recruiting and examining Federal employees, particularly for high-level positions and those positions peculiar to an agency, be given to the agencies.

The Civil Service Commission has been emphasizing a staff role in its relations with the agencies. Job classification has been delegated to the agencies under the Classification Act of 1949. Substantial responsibility for recruiting and examining agency employees is decentralized to agency committees and boards of special examiners. Job classification, recruitment, and examination are carried out under Civil Service standards and review. The Civil Service Commission has also arranged for agency participation in examining applicants for positions common to all agencies; for example, in the recruitment of junior management assistants, agencies participated in preparing examinations and interviewing applicants. The agencies have also been given a freer hand in such areas as transfers, reinstatements, and physical requirements, with the Civil Service Commission retaining authority to review occupational qualifications in its inspection process.

The Hoover Commission also recommended that agencies be required to work out specific programs for promoting career employees. The Civil Service Commission has formulated a Federal promotion policy for filling positions with employees who have rendered good service and demonstrated potentiality for advancement. Agencies are required to set up written promotion plans which will be reviewed by the Civil Service Commission in terms of its policy statement as a part of the regular inspection process. The executive development program sponsored by the Civil Service Commission also assists in a more effective promotion program. In this program agencies are invited to enter into agreements with the Civil Service Commission under which employees with executive potentialities will be given training and experience to fit them for more responsible jobs. The Navy and Agriculture Departments have programs which have been approved by the Civil Service Commission operating in their departments. Under these agreements the Civil Service Commission provides for free transfer of employees among the various fields of administrative activity.

To carry out the recommendation that the Civil Service Commission develop operating standards for agency personnel offices, a handbook on personnel procedures and records system for the agencies is being prepared by that Commission.

The displaced career employees program has as its objective the provision of special preference for laid-off career employees as recommended by the Hoover Commission. This program was initiated by the Civil Service Commission after VJ-day and has continued in effect with good results. Reduction-in-force procedures have been revised to require that employees must be found "well qualified," rather than meeting minimum requirements, before they may displace employees in other jobs. Agencies are also authorized to set geographic limits in competition. These changes are designed to aid in the retention of the best qualified employees.

Another recommendation of the Hoover Commission stressed the need for programs designed to attract first-rate young people for junior professional, scientific, and administrative positions. A series of examinations are given to promote this objective, including those for junior professional assistant, junior management assistant, junior agricultural assistant, junior scientist, and junior engineer. Most of the major agencies have active recruitment programs in these areas and the applicant response to these examinations has been large. The need for a director of personnel on the top management staffs of all agencies, as recommended by the Hoover Commission, was recognized in Executive Order 9830, issued February 24, 1947. It is common practice for personnel directors to participate in top management planning in their agencies.

There has been no action to date on the following recommendations of the Hoover Commission: That the President direct agency heads to require their personnel offices to place primary emphasis upon advising operating officials; that the President require the agencies to establish a more workable method for separating inefficient employees; that heads of agencies require positive participation of employees in the formulation of Federal personnel policies and practices; and that a Nation-wide system for recruiting veterans be operated through selected agencies for 3 or 4 years.

Summary

This report of the Hoover Commission, dealing with personnel management, inevitably involved from the start a maximum of controversial issues. The system of Federal personnel recruitment, both within and without the classified civil service, had developed through the years on substantially an individual agency basis. That is to say, not only had major departments and independent establishments devised specialized methods for recruitment, promotions, reinstatements, transfers, and other personnel matters, but such specialization extended even to bureaus and other subunits.

The reasons underlying this condition are many. Certainly, one of the outstanding causes has been the phenomenal growth in Federal employment that has occurred since the 1930's. First, economic, and then war, conditions involving the entire national welfare have combined to require precipitate Federal recruitment, and unavoidably there ensued a hodgepodge of methods involving all phases of personnel relations.

The Hoover Commission was not the first group to recognize this state of affairs; but from its studies have come carefully considered recommendations, 45 in all, designed to eliminate much that has been

undesirable in Federal employment practices and to institute better methods for the future.

Necessarily, legislative and administrative action, including executive action of the President, has attacked the problem on a piecemeal basis. Any other approach would have created havoc in the day-to-day operations of Government. Nevertheless, analysis of all actions which have been taken and proposed will disclose full or partial completed or pending implementation of all recommendations but one, No. 28, that agency heads should be directed by the President to require personnel offices to place primary emphasis upon advising operating officials, and that most personnel activities be carried on by operating officials.

Illustrations of thorough implementation embrace recommendations bearing upon enactment of a comprehensive pay policy in the executive branch and for increase of the previous salary ceiling of $10,330 per annum. Similarly, recommendations with respect to administration of the Civil Service Commission have been well activated as have recommendations for a broader perspective in the Civil Service Commission in matters of recruiting and examining personnel.

One of the more important Hoover Commission recommendations, for the institution of programs designed to attract high-caliber young people for subordinate professional, scientific, technical, and administrative positions, is now being given active furtherance in most of the major agencies of the executive branch. The soundness of other Hoover Commission recommendations has been equally well recognized and their fulfillment vigorously promoted. Recommendation No. 28, as to which no action has been taken, obviously is essentially one to be given effect through executive, rather than legislative, action and the Bureau of the Budget has advised that thus far no executive action has been taken. In this relation, it must be borne in mind that activation of such a sweeping recommendation may easily interfere seriously with operations of the personnel service of small agencies or subunits thereof, and the need for caution in implementation is apparent.

The record of the entire Federal structure with respect to the Hoover Commission report on personnel management is remarkably good and, by the very nature of the subject involved, further activation and modification may be expected on a continuing basis.

3. OFFICE OF GENERAL SERVICES (SUPPLY ACTIVITIES)

Action Required To Implement Recommendations

The Bureau of the Budget estimated that a total of 24 separate steps would be required to fully effectuate the 23 recommendations of the Hoover Commission in this report. Although these steps were broken down by category of execution as in other reports, legislative action was initiated by the Senate Committee on Expenditures in the Executive Departments which carried into effect practically every recommendation contained in this report, thus eliminating further steps indicated.

The following are the recommendations of the Commission:[1]

(1) That responsibility for supply, records management, and operation and maintenance of public buildings be placed in an Office of General Services, under a director appointed by the President.

(2) That the relationship between certain internal organizations—including the District of Columbia, Smithsonian Institution, National Capital Park and Planning Commission, National Capital Housing Authority, and Commission of Fine Arts—and the executive branch be centered in the Office of General Services.

(3) That the functions of agencies engaged in activities outlined in recommendation No. 1 be transferred to the Office of General Services, with a director in charge of each activity.

(4) That a central Bureau of Federal Supply be created in the Office of General Services, and the Federal Bureau of Supply in the Treasury be abolished.

(5) That a Records Management Bureau be established in the Office of General Services to include the National Archives.

(*a*) Enact a new Federal records management law.

(*b*) Establish a records management program in each department and agency.

(6) That the administration of maintenance of public buildings, allotment of space, and the standardization of forms of leases and deeds be placed in the Office of General Services. (No opinion was expressed as to the design and construction of buildings, or other functions of the PBA.)

(7) That District of Columbia matters involving Presidential action be referred to the Director of the Office of General Services.

(8) No change was proposed in the Smithsonian Institution, but provision should be made for consultation with the Director of the Office of General Services on policy matters.

(9) Enact legislation to repeal ineffective procurement statutes, clear the books of restrictive and conflicting directives, and provide the basic principles for an effective supply system.

(10) Enact legislation to apply the principles of the Armed Services Procurement Act of 1947 to buying by all agencies.

[1] The following numbers do not correspond to numbered recommendations in the report, which is divided into 2 parts, with 9 recommendations under Office of General Services, and 14 under Program for Improving Federal Supply Operations. Recommendations Nos. 2 and 9 are duplicating.

(11) Establish a supply committee, composed of representatives of the Bureau of Federal Supply and the National Military Establishment to coordinate civilian and military supply operations.

(12) Provide the central supply office with competent personnel clothed with sufficient authority to provide leadership necessary to achieve an efficient supply organization in the executive branch.

(13) That responsibility for the purchase or storage of commodities peculiar to the use of an agency be assigned to the agency best suited to exercise such functions.

(*a*) Designate certain agencies to purchase specific items for all agencies.

(*b*) Award contracts for vendors for common-use items, such contracts to be utilized by other agencies.

(*c*) Centralize large purchases, and decentralize the procurement of small purchases to agencies which can procure more economically.

(*d*) Operate a Nation-wide system of storehouses handling common-use items.

(*e*) Procure through consolidated orders for all Government agencies, where savings can be effectuated.

(*f*) Develop master forms of bid and contract documents.

(14) That the traffic management group advise all Government agencies on traffic-management problems, negotiate rates with carriers, represent all agencies before regulatory bodies, and prepare manuals and guides on traffic management.

(15) That a Specifications Unit serve as a secretariat for coordinating the preparation of specifications for the Federal Government and maintain a qualified list of producers.

(16) That a property identification unit be established to recommend policies and procedures for developing a single commodity catalog for the Federal Government.

(17) That an inspection unit be established to determine what products should be inspected, make inspection assignments, prepare inspection manuals, develop regulations and procedures, and to make test inspections.

(18) That a property utilization unit be established to develop property maintenance and replacement standards, rules and regulations, and to determine to what extent property disposal functions should be delegated.

(19) Strengthen the authority of the Secretary of Defense to improve the supply operations of the National Military Establishment.

(20) Amend the National Security Act of 1947 to integrate the supply activities within the constituent departments of the National Military Establishment.

(21) Streamline civilian agency supply organizations along the lines proposed by the Bureau of Federal Supply.

(22) Eliminate the present surcharge levied on the price of commodities procured through the General Services Agency, and finance the administrative costs of such agency by direct appropriations.

Legislative action to implement these and certain other recommendations is set forth hereinafter in this report under Public Law 152, Public Law 754, and Reorganization Plans Nos. 15, 16, 17, 18, and 20 of 1950. Remaining action to be taken involves recommendations Nos. 2 and 9, which can be implemented by reorganization plan, that

the relationship between the District of Columbia, Smithsonian Institution, National Capital Park and Planning Commission, National Capital Housing Authority, and a Commission of Fine Arts be centered in the new agency, and No. 7, that matters involving Presidential action in relation to District of Columbia officials be referred to the General Services Administration. These recommendations were not included in the bill submitted to the Congress by the Hoover Commission attorneys, nor incorporated in the Federal Property and Administrative Services Act or amendments thereto.

Legislative Action

Public laws

Public Law 152, Federal Property and Administrative Services Act of 1949.—Under this act, all Federal housekeeping functions were consolidated in a new agency, the General Services Administration. The Federal Works Agency and the War Assets Administration were abolished and their functions, along with those of the National Archives and the Bureau of Federal Supply and Office of Contract Settlement formerly in the Department of the Treasury were transfe red to GSA on July 1, 1949.

Authority was granted to the GSA to supervise all Federal procurement activities, to improve records-management policies, and to formulate transportation and traffic management methods and procedures in the interest of economy of operation in these fields.

As above noted, this act includes most of the recommendations of the Commission in its report, with certain additional provisions adopted by the committee which would extend the functions of the newly created General Services Administration into all general areas of the Federal Government. The Commission estimated that the approval of this act should effect annual savings of $250,000,000 when fully activated.

S. 2020 (S. 597, 859, 990, 991, 1809, and H. R. 4754), Federal Property and Administrative Services Act of 1949.—The chairman of the Committee on Expenditures in the Executive Departments introduced a bill (S. 991) submitted to the committee by attorneys for the Hoover Commission on February 17, 1949, designed to implement the recommendations of the Hoover Commission report No. 3. At the same time an administration bill (S. 990) prepared by representatives of the Federal Works Agency, the Bureau of the Budget, the Bureau of Federal Supply, the General Accounting Office, and other affected agencies, and submitted to the committee, was also introduced by the chairman, providing for a complete reorganization and simplification of the procurement, utilization, and disposal of Government property, and designed to incorporate all general housekeeping functions performed by the various agencies of the executive branch under centralized control. These and other bills, S. 597, providing for the more economical operation of the general supply fund of the Bureau of Federal Supply, and S. 859, authorizing the Federal agencies to donate surplus property for educational purposes and extending the public-benefit allowances under the Surplus Property Act, previously introduced, were considered by the committee in drafting an over-all committee bill designed to incorporate desirable provisions of all of them. This committee bill (S. 1809) was reported favorably by the committee on May 9, 1949 (S. Rept. No. 338). After a further exam-

ination of this bill (S. 1809) and as a result of consultations with representatives of the Hoover Commission the committee bill was further amended and reported favorably as a new bill (S. 2020) on June 8, 1949 (S. Rept. No. 475).

The House Committee on Expenditures also held extensive hearings on H. R. 2781, a companion measure to S. 990. The Senate committee had prepared a committee print (similar to S. 1809) on May 2 for consideration in executive session, a copy of which was furnished to the House committee at their request. This committee print was subsequently introduced as H. R. 4754, and reported on May 24, 1949 (H. Rept. No. 670). The House Committee then abandoned its bill H. R. 2781. H. R. 4754 was passed by the House on June 8, 1949. Some of the additional provisions of the Senate bill S. 2020 were also incorporated in H. R. 4754 on the floor of the House. The Senate passed H. R. 4754, after substituting the language of S. 2020, on June 21, 1949. Amendments contained in the Senate bill designed to further implement administrative authority and procedures were adopted in conference between the House and Senate, and the act was signed by the President on June 30, 1949, as Public Law 152.

Public Law 394, to clarify the status of the Architect of the Capital under the Federal Property and Administrative Services Act of 1949.—Senate Joint Resolution 127 was introduced in the Senate on August 15, 1949, by Senator McClellan, and an identical resolution (H. J. Res. 340) was introduced in the House by Representative Dawson, in order to clarify the status of the Architect of the Capitol with respect to his authority to procure supplies, materials, and services necessary for the care, maintenance, and operation of the Capitol, the Senate and House Office Buildings, etc., under the provisions of Public Law 152. House Joint Resolution 340 was reported favorably in the House (H. Rept. No. 1333) on August 25 and passed the House on October 3, 1949. The House resolution was reported out of the Senate Committee on Expenditures on October 7 (S. Rept. No. 1136), passed the Senate on October 17 and was approved on October 26, 1949, as Public Law 394.

House Concurrent Resolution 97, to provide for a single catalog system—This resolution, introduced in the House by Representative Anderson of California on February 7, 1950, was designed to place the Congress on record as having approved the previously authorized development and establishment of a single catalog system to be utilized by all agencies of the Government, at the earliest possible date. The authority to establish and maintain a uniform Federal catalog system was contained in section 206 of Public Law 152, but the Congress was not fully satisfied with the progress being made toward the completion of such a system or that the agencies concerned were effectively coordinating their efforts as had been contemplated. While a concurrent resolution has no effect of law, its adoption reemphasized the continuing interest of the Congress in the establishment of a single supply catalog system and as favoring the acceleration of the previously authorized program.

House Concurrent Resolution 97 was reported from the Armed Services Committee of the House on January 20, 1950 (H. Rept. No. 1508) and passed the House on February 6, 1950. The resolution was approved by the Senate Committee on Expenditures in the

Executive Departments on February 22 (S. Rept. No. 1361) and passed the Senate on April 19, 1950.

Public Law 754, approved September 5, 1950, to amend the Federal Property and Administrative Services Act of 1949.—On June 15, 1950, Senator McClellan introduced a bill (S. 3781) to amend the Federal Property and Administrative Services Act, Public Law 152, to extend the original act and to further implement recommendations of the Hoover Commission. The bill was primarily designed to activate a records-management program, a study of which had been previously authorized in Public Law 152, extend the authority of the Administrator of General Services with respect to the use of the General Supply Fund, eliminate surcharges, authorize the donation of surplus personal property to hospitals and medical institutions, clarify and extend the authority of the Administrator of General Services over the custody and control of public buildings and other areas, and to provide for uniform identification of motor vehicles in use throughout the Government service.

After the initial bill had been filed, and following conferences with representatives of the GSA and other affected agencies, a revised bill, S. 3842, was introduced in the Senate on June 28 by Senator McClellan, and later replaced by S. 3959, which was reported on July 24, 1950, as a committee bill (S. Rept. No. 2140). The House of Representatives adopted the language of S. 3959 through the introduction of H. R. 9129, which was reported in the House on July 26, 1950 (H. Rept. 2747). The Senate approved S. 3959 on July 26, and it was passed by the House on August 7, 1950, in lieu of H. R. 9129, and sent to conference. The conference report was filed August 25 (H. Rept. No. 3001), and was approved on September 5, 1950, as Public Law 754.

This act, and the original act, fully implemented all the major phases of the Hoover Commission report on General Services, with the exception of proposed transfers outlined hereinbefore which relate to various functions at the seat of government relating to certain agencies, which are subject to implementation through reorganization plans.

Further amendments to the act may be required to extend the authority of the General Services Administrator in the fields of transportation and traffic management based on experience under existing law. Proposed bills dealing with this subject are covered under the title "Other Legislative Action" in this part of the report, and studies are now being made with a view to perfecting a program in this area.

(See comments on S. 3728, Public Law 821, on p. 50.)

Reorganization plans

Reorganization Plan No. 7 of 1949.—Transferring the Public Roads Administration. The President transmitted to the Senate on June 20, 1949, pursuant to the Reorganization Act of 1949, Reorganization Plan No. 7, providing for the transfer of the Public Roads Administration from the Federal Works Agency (now the General Services Administration) to the Department of Commerce. The plan was referred to the Committee on Expenditures in the Executive Departments for consideration.

This committee reported a resolution of disapproval of the plan (S. Res. 155) on August 16, 1949, without recommendation (S. Rept.

No. 927). The resolution of disapproval was based on the fact that Public Law 152, referred to above, had nullified the operation of the plan inasmuch as the functions of the Public Roads Administration had been vested in the General Services Administrator, and the Public Roads Administration abolished, to be succeeded by a new Bureau of Public Roads. The resolution of disapproval was rejected by the Senate on August 17, 1949, by a vote of 40 to 47, and the plan, therefore, became effective on August 20, 1949.

Reorganization Plan No. 15 of 1950, transferred the administration of Alaska and Virgin Islands public works from the General Services Administration to the Department of the Interior. This plan became effective on May 24, 1950. (Details on p. 105, Report on Department of the Interior.)

Reorganization Plan No. 16 of 1950, transferred the responsibility for financial assistance to public school districts and grants and loans for water pollution from the General Services Administration to the Federal Security Agency on May 24, 1950. (Details on p. 110, Report on Social Security, Education, and Indian Affairs.)

Reorganization Plan No. 17 of 1950.—This plan transferred non-Federal public works advance planning programs and the management and disposal of certain war public works from the General Services Administration to the Housing and Home Finance Administrator.

The Congress activated the advance planning program and placed it under the jurisdiction of the GSA after the submission of the Hoover Commission reports in 1949; therefore, the plan conforms to no specific Commission recommendation.

A resolution of disapproval (S. Res. 271) was introduced in the Senate, and hearings were held before the committee on May 16, 1950. Proponents of the resolution based their opposition to the plan on the premise that it would effect no economies or efficiencies in the operation of the program. They also contended that it was demoralizing to shift programs successfully functioning from the constituent agency in which they are presently operating to an entirely new environment for the relatively short period of time remaining before the liquidation of such programs. It was brought out at the hearings that the staff of the Community Facilities Services in GSA, vested with the functions transferred under the plan, has been burdened with a sense of insecurity and uncertainty arising from the temporary nature of the programs administered, and the charge was made that the plan was merely designed to transfer temporary personnel to another agency to give them permanent status.

Advocates of the plan maintained that all functions transferred under the plan are closely related to the present activities of the Housing and Home Finance Agency, and that the consolidation of such functions would be in the interest of economy and efficiency. It was pointed out at the hearings that the program of the Housing and Home Finance Agency, relating to slum clearance and community development and redevelopment, includes planning programs for the development of large areas involving parks, recreation facilities, community buildings, school buildings, and other such activities closely related to the functions proposed to be transferred under plan No. 17.

The Committee on Expenditures in the Executive Departments reported the resolution of disapproval to the Senate without recom-

mendation on May 18, 1950 (S. Rept. 1676). It was rejected in the Senate by a vote of 29 to 43 on May 23, and the plan, therefore, took effect on May 24, 1950.

Reorganization Plan No. 18 of 1950.—This plan transfers the following functions to the General Services Administrator:

(*a*) Responsibility for leasing (except post offices) and assignment of general-purpose space from other agencies to the General Services Administration.

(*b*) Excess of space not needed by post offices to the General Services Administration.

(*c*) Operation, maintenance, and custody of leased and Government-owned buildings to the General Services Administration (excludes post-office buildings predominantly occupied by the postal service).

Special-purpose buildings and functions excluded in the plan include the following:

(*a*) Military posts, arsenals, navy yards, hospitals, etc., and other special-purpose space, unless authorized by the Secretary of Defense.

(*b*) Post Office Department's leasing authority.

(*c*) Buildings located in foreign countries.

(*d*) Post Office building space used by it or leased for its purpose. (The Post Office has priority in assignment of space in its buildings.)

(*e*) Other Government space which GSA finds is wholly or predominantly used for special purposes, such as housing, manufacturing plants, penal institutions, etc.

(*f*) Treasury Building, Bureau of Engraving and Printing, buildings occupied by the Bureau of Standards, and the Smithsonian Institution.

The plan is in specific accord with Hoover Commission recommendations relative to the consolidation of building management services within the General Services Administration.

A resolution of disapproval (S. Res. 270) was introduced in the Senate, and hearings were held before the committee on May 16. The basis for opposition to the plan was not on section 1, which transferred the functions of other agencies with respect to leasing and assigning general-purpose space in buildings and the operation, maintenance, and custody of office buildings to GSA, but to the effect the plan would have on custodial employees of the postal service. Under sections 2, 3, and 4 of the plan, these employees would be placed under the less liberal provisions of the Civil Service Classification Act of 1949, as compared to the Postal Classification Act of 1945.

The objections raised by the postal employees were that they would receive reductions in pay, lose all sick leave in excess of 90 days and many longevity benefits. The United States Civil Service Commission issued two regulations which guaranteed no loss in present pay and authorized payment of accumulated annual leave. The plan will apparently affect adversely pay expectancies of employees transferred, in that it will deprive them of the benefits of longevity provisions of the Postal Classification Act, and to some extent, the accumulation of sick leave.

Objections to the plan did not directly affect the over-all advantages to be gained by its approval. The committee took no position regarding the pay status of custodial employees, as this is clearly a matter for legislative action by the appropriate committees of Congress, if inequalities arise in relation to the pay of such employees as a result of the approval of the plan.

The resolution of disapproval was reported to the Senate on May 18 (S. Rept. 1675) without recommendation, and was rejected in the Senate by a vote of 7 to 69 on May 23, the plan becoming effective on July 1, 1950, as provided in the plan.

Two resolutions of disapproval (H. Res. 539 and H. Res. 541) were introduced in the House to disapprove Reorganization Plan No. 18, but were reported unfavorably by the House Committee on Expenditures and the resolutions were rejected by the House.

S. 3812 introduced in the Senate by Senator Humphrey provides for retention of the compensation and leave benefits, authorized by the Postal Classification Act of 1945, as amended, for custodial employees transferred from the postal service to GSA under Reorganization Plan No. 18 of 1950. This bill was reported favorably on July 31, 1950 (S. Rept. No. 2214), and passed by the Senate on September 13, 1950.

Reorganization Plan No. 20 of 1950.—This reorganization plan transferred to the Administrator of General Services certain preservation, publication, and certification functions formerly lodged in the Secretary of State and in the Department of State with respect to acts of Congress, amendments to the Constitution of the United States, certificates of appointment and votes of electors of the President and Vice President of the United States, and official papers of the Territories from which the States of the United States were formed. The Administrator of General Services is empowered to delegate this authority within the General Services Administration as he may consider appropriate.

The plan also abolished certain obsolete functions formerly required to be performed by the Secretary of State, namely, (*a*) the procuring of copies of all statutes of the States of the United States, which is now done by the Library of Congress; and (*b*) the publishing of Presidential proclamations and treaties in a newspaper of the District of Columbia. Proclamations are now published in the Federal Register, and treaties are now made available in slip form.

In conjunction with the functions transferred, there were also transferred incidental records, property, personnel, and funds.

There is no specific recommendation of the Hoover Commission relating to the transfer of the functions covered by this reorganization plan. However, the plan is in direct conformance with the position of the Hoover Commission as expressed in Report No. 1. General Management of the Executive Branch, to the effect that improvement of the organization and administration of the Government must include—

a more orderly grouping of the functions of government into major departments and agencies under the President.

The Commission further stated in Report No. 1 that, by placing related functions together in an agency, duplication could be eliminated and coordinated policies could be developed.

An important feature of the plan is the reservation to the Secretary of State of all printing and publication functions, including compiling, editing, and indexing, with respect to treaties, other international agreements, Presidential proclamations related thereto, and postal conventions.

There was no objection to any feature of the plan. It is generally agreed that the plan is thoroughly sound and marks a distinct step forward in the development of better governmental administration. It may be said that the plan placed all functions involved which are of a domestic nature in the hands of the Administrator of General Services, while retaining those of an international character in the hands of the Secretary of State.

The committee reported the plan favorably to the Senate on May 10 (S. Rept. 1550), and it became effective on May 24, 1950.

To further implement plan No. 20, a bill (S. 3728) was introduced in the Senate by Senator McClellan on June 9, 1950, authorizing the compilation of United States treaties and other international agreements by the Department of State and publication thereof in a new volume entitled, "United States Treaties and Other International Agreements." The purpose of this legislation is to promote more efficiency and economy in the administration of the provisions of the plan by eliminating the requirement for printing of international agreements in the Statutes at Large, with anticipated narrower required distribution of the new volume. The bill was reported favorably by the Committee on Expenditures in the Executive Departments on June 28, 1950 (S. Rept. No. 1923). It passed the Senate on July 26, was reported favorably in the House by the House Committee on Expenditures in the Executive Departments on August 11, 1950 (H. Rept. No. 2909), passed the House on September 18, and was approved on September 23, 1950, as Public Law 821.

Other legislative action

During the Eighty-first Congress there were numerous bills introduced to amend the Federal Property and Administrative Services Act of 1949, many of which were identical, or covered similar proposals. For brevity, the following are cited as the most important, the provisions of which have been largely incorporated under Public Law 152 or Public Law 754.

S. 2692, introduced in the Senate by Senator Pepper on October 13, 1949, H. R. 6566 (Sikes), and H. R. 6634 (Rogers), in the House, providing for the donation of surplus personal property to hospitals and medical institutions without reimbursement or transfer of funds, were incorporated in Public Law 754. H. R. 7545 (Bolling), H. R. 8353 (Dawson), H. R. 8416 (Bolling), and H. R. 8890 (O'Hara) were similar to Senate bills S. 3781, S. 3842, and S. 3959, introduced by Senator McClellan. All these measures had as their major purpose clarification of Public Law 152 and the establishment of a uniform system of records management. The House bills were later incorporated in H. R. 9129 (Bolling), and in S. 3959 (McClellan) passed by the Senate on July 26, 1950.

H. R. 7429 and H. R. 7430 (Holifield) and H. R. 103 (O'Hara) were introduced in the House and S. 1095 (Johnson of Colorado) in the Senate to clarify the authority of the General Services Administrator and to establish a transportation and traffic management bureau

in the GSA. Action was deferred by the Congress pending further study and development of a permanent program in these areas.

(See comments on S. 3812 on p. 49.)

Administrative Action

The Commission on Organization recommended that the Bureau of Federal Supply assign the responsibility for the procurement and storage of commodities to the agencies best suited to do the job; continue awarding contracts for common use items; make purchases for small agencies when economies would result; operate storehouses; make volume purchases to achieve savings; develop revised bid and contract documents; and develop rules and regulations for the inspection of products purchased by the Federal agencies.

Plans for carrying out these broad recommendations are being developed by the General Services Administration in a number of projects financed by the President's fund for management improvement. The Administrator has authorized specified units in the organization to make recommendations concerning the proper delegation of procurement and storage responsibilities to other agencies. A study has been completed on the adequacy of funds for expanding services of the central agency. In some cases purchasing for small agencies has been assumed by the General Services Administration. The consolidated purchasing office of the Bureau of Indian Affairs in Chicago, Ill., has been closed and its purchasing functions transferred to the GSA office in that city. The purchasing functions of the Alaska Service Office, Department of the Interior, have been taken over by the GSA office in Seattle, Wash. The GSA and the Department of the Interior are presently studying the desirability of transferring to GSA the purchasing functions for the regular and contract programs of the Navaho Bureau of Indian Affairs. Progress is being made in developing planned agency requisitioning schedules and in the reduction of small-dollar-value orders. Revised bid and contract forms for the purchase of supplies and nonpersonal services have been issued. Steps have been taken to assure that suppliers are more widely informed of invitations to bid. A joint program of the Department of Defense, the Bureau of the Budget, and the General Services Administration is being conducted on the location and availability of Federal inspection facilities and testing laboratories.

The Commission recommendation that a supply policy committee be created to coordinate civilian and military supply operations has been carried into effect. A joint statement entitled "General Statement on Development of Areas of Understanding Between the General Services Administration and the Department of Defense, Pursuant to Public Law 152, Eighty-first Congress", was issued on January 17, 1950. Under this agreement several committees are working to solve problems affecting military and nonmilitary procurement. The Commission also recommended that agency supply organizations be remodeled along the line proposed for the Bureau of Federal Supply. The General Services Administration has laid plans to survey agency operations and to recommend improvements. Staff to carry out the

program is being added as rapidly as qualified personnel can be recruited.

The Commission on Organization also recommended that interagency bodies approve Federal specifications, recommend policies and procedures for their development, and recommend to the President policies and procedures for developing a single commodity catalog.

An Interdepartmental Standards Council is working in the specifications area. The General Services Administration is establishing a central register of all specifications completed or in process by all agencies to prevent overlapping of specifications. The General Services Administration with the advice and assistance of the Civil Establishments Advisory Catalog Board is conducting a survey to determine the cataloging needs of the civil establishments.

It was further recommended that the Bureau of Federal Supply advise the agencies on traffic management problems and prepare manuals on traffic management activities for the agencies. While legislation is needed to define the scope of the program, the General Services Administration has reviewed traffic procedures and instructions in various agencies and is developing uniform practices for use throughout the Government. Steps have also been taken to consolidate and pool shipments within the services of the Administration to reduce transportation costs.

The Commission also recommended that the Administration develop standards and rules for the use, maintenance and disposal of property. These are being developed as a result of a study under the President's management improvement fund and will be issued in the near future after discussion with the agencies. Studies are also being made of the management controls used in the agencies, and other studies aimed at obtaining maximum utilization of property, including opportunities for pooling equipment between agencies.

The Commission recommended that an adequate records-management program be established in each agency. Under a project financed by the President's fund for management improvement, the GSA installed a pilot Federal records center in New York City. The results of the operation of this center indicate that substantial savings may be expected from the economical housing and maintenance of inactive Government records. The records-management program of GSA in the fiscal year 1951 calls for the establishment of three additional Federal records centers in other key cities and for a comprehensive program of records management in all agencies to be prescribed by the Administrator of General Services. Several records-management surveys have been conducted by GSA, and arrangements are being made for an extensive survey of the records problems of the Federal Security Agency at this time. In recognition of the importance of proper records management, Public Law 754 was approved September 5, 1950, to extend the authorities of the GSA in the records field and to direct agencies to establish effective records programs under regulations to be formulated by the Administrator of General Services.

Summary

The majority of the Hoover Commission recommendations on General Services and Supply Activities has been effectuated by enactment of the Federal Property and Administrative Services Act of 1949, Public Law 152, as amended by Public Law 754, approved September 5, 1950, and by necessary administrative action as indicated in the preceding section of this report.

The authority contained in these acts implemented all of the recommendations except No. 2, regarding the relationship of certain independent agencies [1] with the executive, No. 7, District of Columbia matters involving Presidential action, and No. 8, regarding the Smithsonian Institution to consult with General Services Administration on policy matters. Legislation enacted during the Eighty-first Congress as herein outlined contains many important provisions which were not in the Hoover Commission recommendations, but were considered by the Congress as necessary to carry out the purpose and intent of the recommendations in order that centralized supply service and other related functions may be administered in an efficient manner. The enactment of this legislation has been endorsed and acclaimed by the Citizens Committee for the Hoover Report and by many other civic groups interested in bringing about greater economy and efficiency in the Federal service.

[1] District of Columbia, Smithsonian Institution, National Capital Park and Planning Commission, National Capital Housing Authority, and the Commission of Fine Arts.

4. POST OFFICE DEPARTMENT

Action Required To Implement Recommendations

The Bureau of the Budget has estimated that a total of 11 steps will have been required in order to consummate the 9 recommendations of the Hoover Commission in this report. By category of execution, the recommendations are as follows:

Substantive legislation.—Recommendations No. 2, that a Director of Posts be appointed as operating head of the Post Office Department; No. 5, that confirmation of postmasters by the Senate be abolished; No. 6, that the business management, budgeting, accounting, and audit functions of the Post Office Department be made subject to the Government Corporation Control Act of 1945; No. 7, for simplification of postal laws and regulations; No. 8, that the Postmaster General be authorized to fix postal rates so as to make certain services self-sustaining; and No. 9, that specific appropriations be made to the Post Office Department for air-mail subsidies.

Appropriation legislation.—Recommendation No. 9 regarding air-mail subsidies. (See also Substantive Legislation.)

Administrative action.—Recommendations No. 1, that the Postmaster General not be a political party official; No. 3, for decentralization of the postal service into 14 regions under regional and district officials; No. 4, for Presidential appointment of a Post Office Department methods and policies advisory board; and No. 7, for simplification of postal laws and regulations. (See also Substantive Legislation.)

Implementation of these recommendations has been accomplished, or has been proposed, as follows:

LEGISLATIVE ACTION

Public laws

Public Law 231, Post Office Department Research and Development Act.—This law provides for a research and development program within the Post Office Department for a study of equipment, supplies, methods, and procedures used in the postal service. While conforming to no specific recommendation of the Hoover Commission, it does give recognition to the emphasis placed by the Hoover Commission Task Force on the Post Office on the need for such research and development. Further, the act is harmonious with the general position of the Hoover Commission in its report on Federal research wherein the Commission itself recognized the major importance of effective planning and coordination of research activities. Public Law 231 represents the culmination of legislative work begun by the introduction of H. R. 91 on January 3, 1949, by Representative Miller of California. Referred to the House Committee on Post Office and Civil Service, it was reported on April 11, 1949 (H. Rept. No. 421) and passed the House May 2, 1949. Referred to the Senate Committee on Post Office and Civil Service, the bill was reported

therefrom on July 29, 1949 (S. Rept. No. 811) and passed the Senate on August 9, 1949, being finally approved as Public Law 231 on August 16, 1949.

Public Law 712, Post Office Department Financial Control Act of 1950.—Broadly, this law transfers from the General Accounting Office to the Postmaster General functions relating to the maintenance of an accounting system for the Post Office Department and for the postal field service. The legislation includes directives as to the system of accounting and internal controls, the collection of debts, fines, and penalties, and with respect to the auditing of financial transactions and similar matters. Public Law 712 arose directly from H. R. 8923, introduced on June 22, 1950, by Representative Murray of Tennessee. Reported from the House Committee on Post Office and Civil Service on June 26, 1950 (H. Rept. No. 2339), the bill passed the House on June 30, 1950, and was reported in the Senate on August 1, 1950, by the Post Office and Civil Service Committee (S. Rept. No. 2217). Having passed the Senate on August 9, 1950, the bill was approved as Public Law 712 on August 17, 1950. Identical bills, S. 3829, introduced on June 26, 1950, by Senators Frear, Humphrey, and Thye, and H. R. 8926, introduced on June 22, 1950, by Representative Rees, remain without action. Public Law 712 is in implementation of recommendation No. 6 of the Hoover Commission report on the Post Office and recommendation No. 4 of the Hoover Commission report on Federal Business Enterprises.

Reorganization plans

Reorganization Plan No. 3 of 1949, Post Office Department.—The President on June 20, 1949, submitted Reorganization Plan No. 3 of 1949 to accomplish those recommendations of the Commission affecting the reorganization of the Post Office Department which were susceptible of effectuation under the Reorganization Act of 1949. The plan was referred to the Committee on Expenditures in the Executive Departments for consideration.

The provisions of the plan are as follows:

Section 1 transferred to the Postmaster General the functions of all subordinate officers and agencies of the Post Office Department, including the functions of each Assistant Postmaster General, and the Purchasing Agent for the Post Office Department, the Comptroller, and the Bureau of Accounts. This is in accord with part III, Departmental Management, of report No. 1 on General Management of the Executive Branch, relating to the delegation of authority and functions to any officer, employee, or agency of the Department.

Section 2 created a Deputy Postmaster General to be appointed by the President by and with the advice and consent of the Senate, in lieu of a Director of Posts as recommended by the Hoover Commission.

Section 3 created four Assistant Postmasters General to be appointed by the President by and with the advice and consent of the Senate, in lieu of the existing First, Second, Third, and Fourth Assistant Postmasters General.

Section 4 created an advisory board, in accordance with Commission recommendation No. 4.

Section 5 abolished the Bureau of Accounts in the Post Office Department, including the Office of the Comptroller and the Office of

the Purchasing Agent. This accords with recommendations in the Hoover Commission report on general management relative to the delegation of authority and functions to the various Department Secretaries for appropriate reallocation thereof. This section also provided for the abolition of the First, Second, Third, and Fourth Assistant Postmasters General, with the incumbents of these positions, immediately prior to the effective date of the plan, to be reappointed as Assistant Postmasters General, to fill posts created under section 3.

Section 6 required personnel then being employed and records and property then being used or held in connection with any functions transferred by the provisions of the plan to be reallocated as designated by the Postmaster General to conform to the change in functions authorized under the plan. This conforms to general Hoover Commission recommendations under the general management report.

A comparison of Reorganization Plan No. 3 with recommendations of the Hoover Commission, indicates that it conforms or deviates in the following respects:

Recommendation No. 1: The Postmaster should not be an official of a political party. No reference is made to this recommendation in the plan.

Recommendation No. 2: A Director of Posts should be appointed by the President and confirmed by the Senate as operating head of the Post Office Department. This recommendation was omitted from the plan, and a Deputy Postmaster General designated.

Recommendation No. 3: The postal service should be decentralized into 15 regions under regional directors of posts and district superintendents. No mention of this was included in the plan, which is opposed by the Postmaster General.

Recommendation No. 4: A national board of seven advisers serving part time and representing the different elements of the public should be appointed by the President with the Postmaster General as ex officio chairman, and the Director of Posts, ex officio, as vice chairman. This recommendation has been included in section 4 of the plan under which an advisory board is created, composed of seven members serving part time and representing the different elements of the public, of which the Postmaster General will be chairman and the Deputy Postmaster General the vice chairman.

Recommendation No. 5, that the confirmation of postmasters by the Senate should be abolished, is not included in the plan.

Recommendations Nos. 6, 7, and 8, relating to business management, budgeting, accounting and internal operations of the Post Office Department, are not included in the plan.

No disapproving action was taken by either House of the Congress, and thus the plan became effective on August 20, 1949.

Other legislative action

S. 2213 (H. R. 5643), appointment of postmasters.—S. 2213 provides for postmasters of all classes to be appointed without term by the Postmaster General. Appointments of first-, second-, and third-class postmasters would be required to be in the classified civil service. The similar bill (H. R. 5643) provides for the appointment by the Postmaster General of postmasters of all classes by promotions within the service. S. 2213 has been indefinitely postponed and there has

been no action on H. R. 5643. Both bills are in direct conformance with recommendation No. 5 of the Hoover Commission.

S. 1103, S. 1630, and H. R. 2945, to readjust postal rates.—These bills prescribe a new formula for permanent postal rates, in general harmony with recommendation No. 8. The substance of S. 1630 is included in S. 1103, reported in the Senate on September 30, 1949 (S. Rept. No. 1119). A companion bill, H. R. 2945, was reported favorably in the House on October 17, 1949 (H. Rept. No. 1452), and passed the House February 9, 1950. The chairman of the Senate Committee on Post Office and Civil Service requested that S. 1103 be rereferred to his committee on January 11, 1950, for further consideration to familiarize new members of that committee with its provisions and to make certain changes in conformity with language contained in the House bill.

S. 1431, H. R. 2908, H. R. 9184, and H. R. 9305, relating to air mail subsidy.—These four bills would require, generally, a separation of sums paid by the Federal Government in subsidy of air mail transportation from the actual cost thereof. All bills referred to respective Interstate and Foreign Commerce Committees. H. R. 9184 was reported in the House on August 31, 1950 (H. Rept. No. 3041). No action on other three bills. All conform to recommendation No. 9 of the Hoover Commission.

Senate Joint Resolution 197, to investigate business aspects of postal service.—This bill would establish a six-man Joint Committee on the Postal Service, consisting of three members each of the two congressional Committees on Post Office and Civil Service, to investigate and subsequently report to the Congress on matters of postal service in general, rates, expenditures, business methods, etc. It is in harmony with the ends sought to be achieved by recommendations Nos. 6, 7, 8, and 9.

Administrative Action

The Hoover Commission recommended that the Postmaster General not be an official of a political party. This is currently the case, the present incumbent being a career official.

On February 10, 1950, the President appointed a part-time board to advise the Post Office Department on methods and policies as recommended. Six members were confirmed by the Senate and one rejected. An additional member has not yet been appointed.

There has been no action to date on the recommendations that the postal service be decentralized into 15 regions under regional directors of posts and district superintendents, and that the laws and regulations governing the postal service be revised to simplify its operations.

Summary

Of the nine recommendations of the Hoover Commission on the Post Office, only No. 3, for the decentralization of the postal service into 15 separate regions, remains without implementation of a greater or lesser degree. The remaining eight recommendations have actually been given effect or are the subject of proposed activation, although the method of effectuation has varied to some extent. For example, recommendation No. 2 for the appointment of a Director of Posts

has been implemented through section 2 of Reorganization Plan No. 3 of 1949, whereby provision was made for a Deputy Postmaster General.

The two recommendations potentially of the most controversial nature are No. 1, that the Postmaster General should not be an official of a political party, and No. 5, for the abolition of confirmation of postmasters by the Senate. Recognition of recommendation No. 1 seems to have been given by the administration in appointment of the present Postmaster General, who is a career official. As shown hereinbefore, legislation has been introduced both in the Senate and the House to provide for the appointment of postmasters by the Postmaster General without Senate confirmation, although no final action has been taken thereon.

The record of both the Congress and the administration in connection with the Hoover Commission Report on the Post Office is consistent with the constructive action taken in general pursuant to all Hoover reports. As is true of other areas of study of the Hoover Commission, the Post Office is a subject of constant study by the Congress looking to its improvement through annual legislation. The very nature of the service involved insures that implementation of the Hoover Commission recommendations will be a continuing process.

5. FOREIGN AFFAIRS

Action Required To Implement Recommendations

Under authority of Public Law 73 (see below), the activation of the 22 recommendations in this report, involving 28 separate steps requiring 13 administrative actions, 3 reorganization plans, and 9 substantive and 3 appropriation legislative processes, has been delegated to the Secretary of State, except that the law excludes authority for the activation of recommendation No. 20, that departmental State Department personnel and Foreign Service personnel above certain levels be amalgamated. Accordingly, this comprehensive enactment has obviated the need for including herein the estimate of the Bureau of the Budget as to the categories of steps required for implementation of all recommendations.

Action thus far taken, or proposed, in furtherance of the Hoover Commission recommendations is as follows:

Legislative Action

Public laws

Public Law 73, to strengthen and improve the organization and administration of the Department of State.—Through the passage of this act, there was conferred upon the State Department itself authority adequate to permit realization of the Hoover Commission recommendations which may be said to be of an organizational nature in the field of foreign affairs, with the exception of recommendation No. 20, for the amalgamation into a single Foreign Affairs Service of the personnel in the permanent State Department establishment in Washington and the personnel of the Foreign Service above certain levels.

Also, perforce, excepted from the purview of Public Law 73 are such recommendations as the group concerning the Congress, which are more in the nature of advisory suggestions as to the type of legislative action which the Commission felt should be taken in the field of foreign affairs, which is, of course, primarily a responsibility of the Executive.

Specifically, Public Law 73 centralized in the Secretary of State all authority for the conduct of foreign affairs, thus eliminating diffusion thereof between the Secretary and certain subordinates. Moreover, the act increased the number of Assistant Secretaries from 6 to 10 and in general, as stated above, vested within the Department the power to reorganize itself along the sound lines proposed by the Hoover Commission.

This act differs in only three main respects from the recommendations of the Hoover Commission in that (1) it retains the position of Counselor of the Department of State which had been recommended be abolished; (2) rather than providing for two Deputy Under Secretaries as the Commission advised, permission is granted to the

Secretary to designate two of the Assistant Secretaries to serve in the capacity of Deputy Under Secretaries, thereby achieving greater flexibility in operation; and (3) it retains in a staff capacity the office of the Director General of the Foreign Service, the elimination of which the Hoover Commission recommended.

This comprehensive enactment arose from S. 1704, introduced on April 26, 1949, by Senator Connally. Reported in the Senate by the Committee on Foreign Relations on April 26, 1949 (S. Rept. No. 304), the bill passed the Senate on May 6, 1949. S. 1704 passed the House in amended form on May 12, 1949, the Senate agreeing to the House amendments on May 16, 1949. The bill was approved as Public Law No. 73 on May 26, 1949.

A companion bill, H. R. 3559, was introduced on May 15, 1949, by Representative Kee. Reported in the House by the Committee on Foreign Affairs on May 3, 1949 (H. Rept. No. 500), this bill was tabled on May 12, 1949, and S. 1704 substituted.

Reorganization plans

(None.)

Other legislative action

H. R. 9228, to create Foreign Affairs Advisory Commission.—This bill would create a nonpartisan Foreign Affairs Advisory Commission to study and evaluate continuingly domestic and foreign developments affecting the foreign aspects of national policy and to advise and consult with the President with respect thereto, thus conforming to the general tenor of Recommendation No. 4 of the Hoover Commission Report on Foreign Affairs and Recommendation No. 9 of the Hoover Commission Report on General Management of the Executive Branch. Referred to Committee on Foreign Affairs where no action has been taken.

S. 3718, relating to foreign economic recommendations.—This bill proposes a bipartisan commission to recommend policies and programs for the United States to follow in the foreign economic field upon the termination of the Economic Cooperation Administration. It is generally in accord with Recommendation No. 4 of the Hoover Commission Report on Foreign Affairs and with Recommendation No. 9 of the Hoover Commission Report on General Management of the Executive Branch. Referred to the Committee on Foreign Relations where no action has been taken.

S. 3780, to create Commission on Cooperative International Relations.—This bill would create a temporary commission to review present methods and develop new methods of accurately presenting America abroad, to develop programs for prosecution of nonmilitary phases of the cold war, and to assist other people. Twelve members of Commission to be appointed, four each, by President of the United States, President of the Senate, and Speaker of the House. In general conformance with Recommendation No. 4 of the Hoover Commission Report on Foreign Affairs and Recommendation No. 9 of the Hoover Commission Report on General Management of the Executive Branch. Referred to Committee on Foreign Relations where no action has been taken.

House Joint Resolution 521, to create Select Joint Committee on Foreign Policy, and for other purposes.—This joint resolution, introduced on

August 15, 1950, by Representative Coudert, and identical House Joint Resolutions Nos. 525 to 535, inclusive, introduced subsequently by various other Representatives, call upon the President for answers to stated foreign policy questions. In the absence of such Presidential information to the Congress, there would be created a select joint committee composed of Members of the Congress to consider and recommend a national foreign policy. These resolutions bear general relation to Recommendation No. 4 of the Hoover Commission Report on Foreign Affairs and Recommendation No. 9 of the Hoover Commission Report on General Management of the Executive Branch.

Administrative Action

Public Law 73, Eighty-first Congress, which became effective May 26, 1949, gave the Secretary of State authority to determine the internal organization of the Department and since that date the Department has been steadily effectuating the recommendations of the Hoover Commission.

The Commission recommended that the fundamental objectives and policies of the United States in foreign affairs be defined to permit the delegation to line units of authority to take action, and that responsibility for decisions within the line units should be clearly fixed. This has been done. The Executive Secretariat sees that policy decisions are maintained and disseminated currently, and action taken to carry them out.

It was further recommended that the five Assistant Secretaries with line responsibilities serve as the focal points of contact between the Department and the missions in both substantive and administrative matters, and that the chief of each foreign mission be the responsible official for the area to which he is assigned. These recommendations are in effect.

The Assistant Secretary for Economic and Social Affairs provides economic, social, and other advice from a global standpoint and serves as focal point of coordination with other executive agencies. The Assistant Secretary for Congressional Affairs is responsible on a full-time basis for establishing a two-way liaison with Congress. Designated representatives of the Department have continuous responsibility for consulting with subcommittees of the Senate Foreign Relations Committee and the House Foreign Affairs Committee to provide for a full flow of information. The Assistant Secretary for Public Affairs serves principally as a staff adviser on domestic and foreign public opinion and as chief of public relations. A General Manager for the International Information and Educational Exchange Program has been appointed to relieve the Assistant Secretary for Public Affairs for the performance of the recommended responsibilities as indicated above.

High-level planning has been continued under a planning adviser freed from current problems and aided by a broad-gage staff. The intelligence unit has been reorganized and intelligence advisers have been assigned to the regional units.

An Operations Committee has been established, with the Under Secretary as Chairman, to serve as the coordinating link between the action and staff units of the State Department.

In accordance with a Commission recommendation, interagency committees in the area of foreign affairs are assisted by special institutional aids in the State Department.

The Commission also recommended that each agency with important foreign affairs responsibilities establish an office directly responsible to the agency head for the coordination of its foreign affairs activities. Such offices exist in the Departments of Treasury, Defense, Agriculture, Commerce, Labor, and the Federal Security Agency.

Summary

The preceding text of this report on progress made by the Congress and by the Administration in the field of foreign affairs pursuant to the Hoover Commission recommendations serves to eliminate the need for amplification in summary form. The outstanding exception to activation is, as previously stated, recommendation No. 20 relating to amalgamation of the departmental and Foreign Service personnel. Deferment in this instance is the result of a decision to permit more thorough exploration into the matter.

6. DEPARTMENT OF AGRICULTURE

Action Required To Implement Recommendations

The Bureau of the Budget has estimated that a total of 17 steps will be required to effectuate the 16 recommendations of the Hoover Commission in this report. The Bureau classified the recommendations into four categories of effectuation, as follows: Those requiring (1) substantive legislation, (2) appropriation legislation, (3) reorganization plan, and (4) administrative action. By action categories, the numbered recommendations are as follows:

Substantive legislation.—Recommendations No. 2, to add an Assistant Secretary and an Administrative Assistant Secretary in charge of staff;[1] No. 7, to establish Federal agricultural research stations only where existing joint Federal-State facilities cannot meet needs;[2] No. 10, to charge product inspection costs for the benefit of the general public to Federal Government, for benefit of producers and processors to those producers or processors; and No. 11, to pay customs receipts now allotted to Department of Agriculture into Treasury, and make direct annual appropriations for specified purposes.

Appropriation legislation.—Recommendation No. 16, to institute a comprehensive department management survey to determine further savings.[2]

Reorganization plan.—Recommendations No. 1, to group activities relating to the same major purpose;[2] No. 13, to transfer all Federal regulatory functions relating to food products to the Department of Agriculture; and No. 15, to transfer Bureau of Land Management (excepting minerals) to Agriculture; and transfer water development activities, except local farm supply, from Agriculture to Interior.

Administrative action.—Recommendations No. 3, to overhaul Department organization at State, county, and farm level; No. 4, to organize Department of Agriculture councils in each county; No. 5, to administer services to individual farmers through offices based on the States as units, merge services at county levels; No. 6, to establish one State council in each State and one county council in each agricultural county; No. 8, to restrict conservation payments to farmers who carry out complete program, cease payments upon completion of program; No. 9, to operate commodity adjustment programs on a stand-by rather than continuous basis; No. 12, to authorize Department to report on justification of irrigation or reclamation projects to the President and Congress; the Bureau of the Budget indicated in its analysis of the Hoover Commission recommendations on the Department of Agriculture that—

A Drainage Area Advisory Commission of representatives of Interior, Agriculture, and each State involved should be created for each major drainage area as an advisory and coordinating body.

[1] The Bureau of the Budget indicated that this recommendation could be effectuated by a reorganization plan.

[2] This recommendation could also be effectuated by administrative action.

This is recommendation No. 11 of the Hoover Commission report on the Department of the Interior and should be considered in connection with that report.

Recommendation No. 14, providing for the consolidation of Agriculture, Natural Resources, and Public Works into a single agency was not included in the Bureau of the Budget's analysis of method of effectuation.

Legislative Action

Public laws

(None.)

As indicated under another part of this report, several bills were introduced in the Congress to effectuate in whole or in part the recommendations of the Commission on Organization of the Executive Branch of the Government (Rept. No. 6 on the Department of Agriculture). The principal bills were S. 2055 (McCarthy), H. R. 5179 (Hoffman), S. 3783 (Ellender), and H. R. 8850 (Cooley). Only one of these bills (H. R. 8850) was reported by the committee having jurisdiction and approved by the House of Representatives; therefore progress in effectuating the recommendations has not advanced in this area as far as under the other Commission reports.

Reorganization plans

Reorganization Plan No. 4 of 1950, providing for reorganization of the Department of Agriculture; for the transfer of all the functions now vested in other officers, employees, and agencies of the Department of Agriculture to the Secretary, except the functions conferred on hearing examiners, corporations, boards of directors and officers of such corporations, and the Advisory Board of the Commodity Credit Corporation; authorizing the Secretary to redelegate such responsibility to any officer, employee, or agency within the Department as he deems appropriate; establishing two additional Assistant Secretaries to be appointed by the President by and with the advice and consent of the Senate; authorizing the establishment of the office of an Administrative Assistant Secretary to be appointed by the classified civil service at a salary of $14,000 annually; and transferring any of the records, property, personnel, and funds from the present offices and activities to the new offices.

A resolution of disapproval (S. Res. 263) was introduced in the Senate and referred to the Committee on Expenditures in the Executive Departments. The committee reported the resolution of disapproval favorably on May 16, 1950. The majority of the committee concluded that the plan contained an unwarranted delegation of authority to the Secretary on a permanent and continuing basis without restriction or restraint as to how and when it would be exercised. The following extracts from the committee's report (S. Rept. No. 1566) set forth the premise on which this action was taken:

> Reorganization Plan No. 4 authorizes the Secretary to consolidate or abolish long-established components in conformity with any over-all national farm program that may be adopted by this or any incoming national administration. It authorizes the Secretary of Agriculture to take actions which would in effect destroy the will of the Congress as expressed in basic legislation setting up the various functions of the Department of Agriculture, and bring the policies of the Department under direct political control of the President.
>
> The majority of the committee feels that Reorganization Plan No. 4 deals primarily with "matters of substantive policy" which have been established by the Congress after many years of study. It is the opinion of a majority of this committee that to grant the Secretary the powers contained in this plan would mean

that the Congress is abjectly surrendering its legislative authority to the Secretary of Agriculture without any indication as to how it will be used and without veto powers over any reorganization effected thereunder.

The plan contains no compulsion or mandate to the Secretary that he shall reorganize the Department, nor is there any provision in the plan which would place any limitation on his authority to disrupt one service with which he is not in full accord in favor of another which he might favor. It places in the Secretary a blank check to use or not in any manner he may desire now and hereafter without advance indications to the Congress as to what action he will take to effect reorganizations either in accord with or opposed to Hoover Commission recommendations.

The report concluded that—

This is not a reorganization plan. It is simply a proposal to have Congress delegate all of its legislative authority to the Secretary of Agriculture. It would take away from Congress any authority to pass on organizations within the Department of Agriculture, and might pave the way for the potential disruption of the entire farm program conceived by the Congress after nearly a century of constant study and development. The risk involved under such a proposal dwarfs any possible improvements that might result from the plan's adoption.

Seven of eight members of the Hoover Commission task force on agriculture, on which the Commission's recommendations were based, appeared before the committee in strong opposition to Reorganization Plan No. 4. The chairman of the task force, H. P. Rusk, dean of the College of Agriculture of the University of Illinois, stated that the task force in studying the operations of the Department of Agriculture—

soon found that a well-coordinated organization could not be secured by merely shuffling the existing units—

and that Reorganization Plan No. 4—

offers no directive in support of any efforts the Secretary may make toward adoption of the basic administrative grouping of functions recommended by the Commission.

Dean Rusk then pointed out that—

the record of a previous attempt during the years to secure a more effective, economical organization of this and other departments of the executive branch of the Government shows that the absence of specific directives places the Secretary in a very weak position with regard to vested interests in and outside of the Department.

He then concluded:

We, as former members of the agriculture task force, believe that Reorganization Plan No. 4 should be rejected, and that specific directives should be provided by the Congress to effectuate the basic principles and recommendations of the Commission. I am advised that legislation is now being prepared to accomplish this objective. * * *

The Senate supported the committee's recommendations by adopting the resolution of disapproval on May 18, 1950, by voice vote and the plan was therefore rejected.

Other legislative action

S. 2055 (H. R. 5179), reorganization of the Department of Agriculture.—This bill was submitted by counsel for the Commission and referred to the Senate Committee on Agriculture and Forestry. It provides for three Assistant Secretaries of Agriculture (now one), to be appointed by the President with the advice and consent of the Senate, including one for administration. Gives the Secretary of Agriculture reasonable opportunity to study all proposed reclamation plans prior to submission to Congress. Gives the Secretary broad powers, with the approval of the President, to effect reorganization in

the Department pursuant to the recommendations of the Commission. No committee action has been taken by the respective committees on either one of these bills.

S. 3783 (Ellender) and H. R. 8850 (Cooley).—These identical bills provide two additional Assistant Secretaries of Agriculture and an Administrative Assistant Secretary of Agriculture, to perform such functions as the Secretary may prescribe.

H. R. 8850 was reported favorably by the House Committee on Agriculture on July 24, 1950 (H. Rept. No. 2716) and passed by the House on August 23, 1950. No action has been taken on this bill or the companion bill (S. 3783) by the Senate Committee on Agriculture and Forestry.

These proposals are intended to effectuate recommendation No. 2 of the Hoover Commission on the Department of Agriculture, and make available additional assistants to the Secretary of Agriculture which was contained in Reorganization Plan No. 4 of 1950, rejected by the Senate on May 18, 1950. In this connection, it is noted that the Hoover Commission recommended the addition of one Assistant Secretary and one Administrative Assistant Secretary, whereas these bills provide two Assistant Secretaries and an Administrative Assistant Secretary of Agriculture.

Administrative Action

The Hoover Commission recommended that the Department be reorganized into a Research Service, Extension Service, Agricultural Resources Conservation Service, Commodity Adjustment Service, Regulatory Service, Agricultural Credit Service, and Rural Electrification Service; and that the field organization be overhauled to eliminate offices which duplicate facilities of the Department or the States and provide a better integrated organization. The authority necessary to complete all the above changes was denied by the Congress in its disapproval of plan No. 4 of 1950. The Department has been conducting studies by top-level officials on possible organizational changes under existing authority.

There has been no action to date on the Commission recommendation that conservation payments to a farmer be restricted to those which will bring about the adoption of a complete and balanced conservation plan for a farm and that the payments should stop when the plan has been completed.

Summary

In conclusion, it will have been noted that four bills were introduced in the Congress and Reorganization Plan No. 4 was submitted by the President to effectuate the recommendations of the Hoover Commission in its report on the Department of Agriculture. A resolution of disapproval (S. Res. 263) was adopted by the Senate on May 18, 1950, thereby rejecting Reorganization Plan No. 4.

Most of the bills introduced to implement the Commission's recommendations have been considered by the Senate and House Committees on Agriculture and Forestry; however, none of the bills have been reported except H. R. 8850, which provides for making available two additional Assistant Secretaries and an Administrative Assistant Secretary. This bill was passed by the House on August 23, 1950, and referred to the Senate Committee on Agriculture and Forestry.

7. BUDGETING AND ACCOUNTING

Action Required To Implement Recommendations

In its analysis of the steps required to effectuate the recommendations of the Hoover Commission in its Report on Budgeting and Accounting, the Bureau of the Budget estimated that 23 actions would be necessary to place into operation the 13 numbered recommendations of the main report and the 5 in the accompanying report on statistical activities.

The Hoover Commission characterized the Federal budget as "an inadequate document, poorly organized and improperly designed," and set forth four numbered recommendations for its improvement calling for: (1) the use of performance budgeting by the adoption of a budget based on functions, activities, and projects; (2) a survey of appropriation practices looking toward simplification of appropriation structure, language, and procedures; (3) separation of current expenditures from capital outlays; and (4) authorizing the President to spend less than full appropriations if congressional purposes are carried out.

It also recommended a complete revision of the Office of the Bureau of the Budget proposing, recommendation No. 5, close teamwork on budget review between Estimates, Administrative Management, and Fiscal Divisions and, No. 6, with Treasury and other officers; No. 7, emphasis on the development of standards for performance budgets and management research functions; and Nos. 8 and 9, supervision by the President of publication and statistical activities through the Bureau of the Budget.

Recommendation No. 9 is related to a special report on statistical activities, accompanying the Hoover Commission Report on Budgeting and Accounting, which contained five numbered recommendations elaborating on improvement of the statistical system, as follows: No. 1, that the diverse system of collecting and analyzing statistical data should be continued, with greater use being made of the Census Bureau for repetitive large-scale tasks of primary collection and tabulation of statistical data; No. 2, responsibility should be fixed for the adequacy of the statistical system as a whole, for its economical operation and coordination, and for determining priorities among these activities; No. 3, the costs of statistical services that are mainly of benefit to specific groups should, to the greatest extent possible, be shifted to the beneficiaries; No. 4, forms and questionnaires sent to the public should be simplified and the Division of Statistical Standards should make a constant effort to relieve the burden of these reports on businesses and individuals; and No. 5, subject to the approval of the President, the Division of Statistical Standards of the Bureau of the Budget should be strengthened to perform such work.

The main report also presents recommendation No. 10, that a new Accountant General be established in the Department of the Treasury, to prescribe general accounting methods and enforce accounting pro-

cedures, subject to approval of the Comptroller General; No. 11, field examination of vouchers by the Comptroller General; No. 12, simplification or elimination of the warrant system; and No. 13, congressional study of a Federal fidelity insurance plan.

The Bureau of the Budget analysis for implementation of action to carry out these recommendations was broken down into the usual categories. Since the Congress, however, initiated appropriate legislative action to cover, with the exception of but one recommendation, the entire scope of the Commission's Report on Budgeting and Accounting as incorporated under the section entitled "Legislative Action," hereinafter, no breakdown can be included in this report.

The single exception to the legislative action implementing the recommendations of the Commission in this report was as follows: Recommendation No. 10, to create an Accountant General under the Secretary of the Treasury with authority to prescribe general accounting methods and procedures subject to the approval of the Comptroller General (duplicated in its report on the Treasury Department). This recommendation was contrary to congressional policy in effect over a period of many years and involves issues which have long been in conflict between the legislative and executive branches of the Government. Full details are set forth in the following paragraphs:

Legislative Action

Public laws

Public Law 784, the Budget and Accounting Procedures Act of 1950.—This act supplements the Budget and Accounting Act of 1921. It makes provision for a completely revised and modernized budgeting program, full disclosure of the results of Federal financial operations, and for effective control over income, expenditures, funds, property, and other assets. The act implements the joint and continuous program of the Comptroller General of the United States, the Secretary of the Treasury, and the Director of the Bureau of the Budget to bring about improvement of accounting and financial reporting in the Government.

The original bill dealing with this subject was drafted by counsel for the Hoover Commission to implement recommendations in Report No. 7 on Budgeting and Accounting. The bill, S. 2054, was introduced in the Senate on June 13, 1949, by Senator McCarthy and referred to the Committee on Expenditures in the Executive Departments. A companion bill, H. R. 5178, was filed in the House by Representative Hoffman on June 15, and a revision thereof (H. R. 5823) by him on August 1, 1949. The Senate committee held extensive hearings on S. 2054 at which practically every witness appeared in opposition to the bill as introduced, and to a proposed substitute therefor, necessitating a complete revision of the proposal. This revised bill was drafted after several months of cooperative effort on the part of the Senate committee, the General Accounting Office, the Bureau of the Budget, and the Department of the Treasury, and was introduced as a committee bill (S. 3850) on June 29, and reported to the Senate on July 12, 1950 (S. Rept. No. 2031). The bill as drafted by the Senate Committee on Expenditures in the Executive Departments was filed in the House without modification on July 5 (H. R. 9038), by Representative Karsten. The House committee reported it favorably in amended form on July 13 (H. Rept. No. 2556, which

was practically identical to the Senate report), and it passed the House on July 26, 1950.

The Senate, after passing S. 3850 on August 9, 1950, substituted the House bill and included the language of the Senate bill in the nature of an amendment. The differences were agreed to in conference (H. Rept. Nos. 3002 and 3030), the conference report adopted in both the House and the Senate on August 31, and approved as Public Law 784 on September 12, 1950.

The Senate bill as reported by the Committee on Expenditures in the Executive Departments included a section activating recommendation No. 3, providing for the separation of current expenditures from capital outlays, which was stricken in the House and on the Senate floor.

Part I of title I of Public Law 784, the Budget and Accounting Procedures Act of 1950, sets forth budget provisions which will enable the President to present the financial program of the Government in simpler and more meaningful terms. It will provide a basis for a better evaluation of Government programs and activities, in terms of where the funds come from, the purposes to which they are to be applied, and the costs involved.

Part II of title I of Public Law 784, in authorizing the establishment of a balanced and coordinated program, (*a*) requires the Comptroller General to prescribe the principles, standards, and related requirements for accounting; to provide a basis for integrated accounting for the Government, full disclosure of the results of financial operations of each executive agency and the Government as a whole, and financial information and control necessary to enable the Congress, the President, and agency heads to discharge their respective responsibilities; (*b*) establishes responsibility in the executive branch for maintenance of accounting systems and the production of financial reports on the operations of the executive agencies with centralized financial reporting vested in the Secretary of the Treasury; and (*c*) centers in each department and agency authority and responsibility to establish and maintain its own accounts under the general principles, standards, and related requirements established by the Comptroller General of the United States.

The auditing of the financial transactions of the Federal Government will continue to be conducted by the Comptroller General of the United States as an agent of the Congress, under provisions permitting more comprehensive and more selective audits, to be developed in line with improved agency accounting systems, internal controls, and related administrative practices, along with an on-the-site audit program, and authority for modification or elimination of the present procedures involving the issuance and countersignature of warrants.

Public Law 784 eliminated from the original title I of the bill, as passed by the Senate, additional provisions to accord with Hoover Commission recommendations which would have (1) authorized the head of each department and establishment in the executive branch of the Government, with the approval of the President, to make transfers and adjustments between appropriations, providing, however, that no appropriation should be increased or decreased thereby during any fiscal year by more than 5 percent, with reports of such transfers and adjustments, with reasons therefor, to be submitted currently to the President and the Congress and summarized annually

in the budget; and (2) specifically authorized the President to establish and modify budgetary reserves under appropriations for the executive branch to the extent that he determines the purpose intended by the Congress will be accomplished by the expenditure of amounts less than the amounts appropriated. The first of these was stricken from the bill in the House and removed in conference. The latter is covered under section 1211 of Public Law 759, outlined below.

Title II of Public Law 784 relates to the control of appropriations, requiring prior approval by the heads of such departments or establishments of any request for legislation which would authorize subsequent appropriations. This title also provides for adjustments of appropriations made necessary by reorganizations.

Title III of the act contains 106 provisions for repeal, in whole or in part, of existing laws which are obsolete, or are in conflict with the provisions of the subject bill. Of this total, 89 are either inconsistent with or superseded by the Budget and Accounting Act or other existing laws; 13 have been superseded by or modified by appropriation acts, or can be more appropriately provided for on an annual basis in the texts of the various appropriation acts rather than in permanent law; 3 repeal laws calling for reports having only doubtful value; and 1 provision repealed existing requirements of law relating to personnel ceilings and limitations, which are considered to be unnecessary under existing budgetary controls and appropriation procedures.

Recommendation No. 13, providing for a complete study of the question of fidelity insurance for employees and accountable officers of the Government in order to arrive at a simple and less expensive procedure is repeated in Hoover Report No. 11 on the Treasury Department. The recommendation is covered in the discussion of the latter report under the title "Other Legislative Action," bill H. R. 8706. As there indicated, the Congress did, however, make an extended study of fidelity insurance over a period of many months, and it is therefore proper to state that the recommendation was carried out although no final action resulted therefrom.

Public Law 784 authorizes the President, through the Director of the Bureau of the Budget, to develop programs and issue regulations for the improved gathering, compiling, analyzing, publishing, and disseminating of statistical information for any purpose by the various agencies of the executive branch. The authorization conforms to the general provisions of recommendation No. 9, that the Bureau of the Budget supervise all publications in the executive branch. It does not cover recommendation No. 8, which deals solely with statistical considerations outside the budgetary field which are implemented in this act only to the extent of publication of fiscal and statistical information.

The Hoover Commission recommended that forms and questionnaires sent to the public be simplified and that constant effort be made to relieve the burden of those reports on businesses and individuals. The Division of Statistical Standards of the Bureau of the Budget has had this activity as a continuing responsibility for a number of years under the Federal Reports Act of 1942. The hand of the Bureau of the Budget has been strengthened in this field by the enactment of section 103 of the Budget and Accounting Procedures Act of 1950. Section 103 provides that the President, through the Director of the Bureau of the Budget, is authorized and directed to develop programs

and to issue regulations and orders for the improved gathering, compiling, analyzing, publishing, and dissemination of statistical information for any purpose by the various agencies in the executive branch of the Government. Section 103 therefore has the effect of implementing recommendation No. 9 in the main report, and the five recommendations included in the supplemental report on statistical activities.

Public Law 216, title IV of National Security Act amendments of 1949.—S. 1269 (H. R. 3845), was introduced in the Senate on March 28, 1949, to implement recommendations of the Hoover Commission relative to the creation of a Department of Defense. After extended hearings and discussion on this bill, a new committee proposal, S. 1843, was filed by Senator Tydings on May 12, 1949, in which was incorporated an extensive title IV on budgetary and fiscal procedures. The provisions of this title were prepared at the request of the Committee on Armed Services by Ferdinand Eberstadt, Chairman of the Task Force Committee of the Hoover Commission which originally reported on the National Security Organization, and conforms to the accounting and auditing program enacted under Public Law 784 above, for other Federal establishments. Companion bills were filed in the House, H. R. 5593 and H. R. 5632, on July 12 and 13, 1949, by Representative Short. S. 1843 was reported favorably in the Senate on May 12, 1949 (S. Rept. No. 366), and passed the Senate on May 26, 1949. H. R. 5632 was reported favorably by the House Committee on Armed Services on July 14, 1949 (H. Rept. No. 1064), passed the House on July 18, and the Senate, after substituting the language of S. 1843, passed the House bill on July 20. It was approved as Public Law 216 on August 10, 1949. Related bills are S. 1269 (Tydings), H. R. 3845 (Vinson), and H. R. 5593 (Short), none of which made any legislative progress.

Public Law 712, Post Office Financial Control Act of 1950.—In the Budget and Accounting Procedures Act of 1950 (Public Law 784, outlined above), the Post Office Department was exempted from certain provisions of the act since the Post Office Financial Control Act of 1950 covered that Department in specific detail. This act accomplishes the following major objectives: (1) Transfers the administrative accounting and reporting functions performed by the Comptroller General for the Post Office Department to the Postmaster General; (2) transfers the preaudit expenses of the Post Office Department from the Comptroller General; (3) establishes the requirements of the accounting system to be set up by the Post Office Department but provides that the Comptroller General shall prescribe the principles and standards for such system; (4) authorizes the Postmaster General to collect debts due the Department and collect and remit fines, penalties, and forfeitures arising out of matters affecting the Department; (5) provides a permanent revolving fund within the Department for its operations; and (6) authorizes a progressive decentralization and refinement of General Accounting Office audits including the making of audits more comprehensive in scope but on a selective basis as to individual transactions, where warranted. (For further details, see S. Rept. No. 2217 of the Senate Committee on Post Office and Civil Service and the report on the Post Office, herein.)

S. 3829 incorporated these provisions in general conformity with recommendations of Hoover Commission Report No. 7 on Budgeting

and Accounting, and Report No. 4 on the Post Office Department. It was introduced in the Senate by Senators Frear, Humphrey, and Thye on June 26, 1950, and an identical bill was filed in the House by Representative Murray (H. R. 8923) on June 22, 1950. The House Committee on Post Office and Civil Service reported H. R. 8923 on June 26, 1950 (H. Rept. No. 2239) and the bill passed the House on June 30, 1950. The Senate committee substituted H. R. 8923 for S. 3829 and reported it favorably on August 1, 1950 (S. Rept. No. 2217). It passed the Senate on August 9 and was approved on August 17, 1950, as Public Law 712. Related bills are S. 2062 (McCarthy), S. 2212 (Frear), S. 2509 (Flanders), H. R. 5177 (Hoffman), and H. R. 5775 (Murray), none of which made any legislative progress.

Public Law 656, to provide for financing the operations of the Bureau of Engraving and Printing.—Another bill (S. 3653) was introduced in the Senate by Senator McClellan May 25, 1950, which provided for revised and improved accounting procedures within the Bureau of Engraving and Printing. The provisions of this bill are in line with the Budget and Accounting Procedures Act of 1950, and include authorizations for Treasury Department controls over the fiscal operations of the Bureau of Engraving and Printing, including a revolving fund somewhat similar to that provided in Public Law 712, the Post Office Financial Control Act of 1950, outlined above. (For further details, see the report on the Department of the Treasury.)

Public Law 759, General Appropriation Act of 1951.—Section 1211 of the Omnibus Appropriation Act of 1950 implemented Hoover Commission Recommendation No. 4 by authorizing the President to spend less than full appropriations if congressional purposes are still carried out and by authorizing rescissions of unexpended balances as provided under the Budget and Accounting Act of 1921. Its adoption by Congress resulted in the elimination in conference of a somewhat similar provision in S. 3850, the Budget and Accounting Procedures Act, which would have clarified the President's authority to secure economy and reduce expenditures whenever he determined that the objectives of the appropriations made by Congress could be accomplished by the expenditures of an amount smaller than the appropriation.

Public Law 830, amendments to the Administrative Expenses Act of 1946.—This act provides for the elimination of the administrative practices resulting from restrictions in appropriations which serve no useful purpose. It accords with the recommendation of the Hoover Commission Report No. 7 on Budgeting and Accounting, which stated that—

> in spite of recent simplifications, the language of some appropriation items remains a jungle of detailed provisions. Many of these detailed prescriptions would seem to be susceptible of more or less uniform treatment in codified form.

The act permits the elimination from appropriation bills of many useless duplicating phrases which are required under existing law, and authorizes the removal of a large portion of the "jungle of detailed provisions" which the Commission criticized.

A bill (S. 4002) was introduced by Senator McClellan on August 2, 1950, to carry out recommendations made to the Senate Committee on Expenditures in the Executive Departments by the General Accounting Office, in accordance with section 205 of the Legislative Reorganization Act of 1946, requiring a study on restric-

tions on expenditures of appropriated funds. The bill amended Public Law 600 of the Seventy-ninth Congress and was characterized as "a bill to eliminate Government red tape" because it removes a number of unnecessary steps previously required. Following the introduction of this bill, the House Committee on Expenditures in the Executive Departments combined its provisions with Senate bill 3971 (Tydings), providing for further amendments to the Administrative Expenses Act, and introduced the combination in the House as H. R. 9430, on August 2, 1950. H. R. 9430 was reported favorably on August 23 (H. Rept. No. 2984) and passed the House on August 23, 1950. The House bill was amended by the Senate Committee on Expenditures in the Executive Departments and reported favorably on August 30, 1950. It was approved as Public Law 830 on September 23, 1950.

Public Law 636, to facilitate the settlement of the accounts of certain deceased civilian employees of the Government.—This act, like Public Law 830, outlined above, is designed to eliminate unnecessary administrative practices and reduce Government red tape. The act will effect more expeditious payment of claims where a beneficiary has been named or where there is a surviving spouse, without in any way lessening safeguards of the interest of the United States. It removes the restrictions which previously required duplicate handling of certain types of death claims by the Comptroller General, and delegates payment under prescribed regulations to the employing agency. Competent Government officials estimate that passage of this act will effect savings of $100,000 on a recurring annual basis.

Senator McClellan introduced S. 3652 in the Senate on May 25; it was reported favorably by the Senate Committee on Expenditures in the Executive Departments on June 30, 1950 (S. Rept. No. 1933), and passed the Senate on July 26. The House Committee on Expenditures reported the bill favorably on July 13 (H. Rept. No. 2543). It passed the House on July 27, and was approved as Public Law 636 on August 3, 1950.

Reorganization plans

None.

Other legislative action

H. R. 8054, Budgetary Practices Reorganization Act of 1950.—H. R. 8054 was introduced in the House by Representative Roosevelt on April 6, 1950. It provides for long-range budget estimates in the President's Annual Economic Reports, or the Economic Reviews of the Council of Economic Advisers, or both; directs inclusion of a Presidential item-veto clause in the appropriation act; provides that the budget message of the President shall include a presentation in detail and in summary of the total flow of costs between the public and the Federal Government; proposes that in budget estimates the President should, to the extent feasible, separate operating expenditures from investment expenditures (capital, developmental, and recoverable), and proposes that major investment expenditures be available over a period of four fiscal years. Hearings were held on this bill by the House Committee on Expenditures in the Executive Departments on June 8 and July 18, 1950, but no action was taken.

S. 2161, authorizing the President to impound certain appropriated moneys.—S. 2161, introduced by Senators Hunt, Withers, and Lodge on June 29, 1949, has a complicated background, stemming from

difficulties connected with the legislative budget procedure established under the Legislative Reorganization Act of 1946. It resembles an item-veto bill, since it authorizes the President to strike out part or all of items of appropriations which he deems are "not in the public interest." Congress may, however, reappropriate these stricken dollar items by simple majority, and the President cannot again intervene. This provision stops short of authorizing the President to eliminate nonfiscal as well as fiscal provisions of appropriation bills. The committee took no action on this proposal.

S. 2898, to establish a Joint Committee on the Budget.—This bill, introduced by Senator McClellan on January 19, 1950, would amend the Legislative Reorganization Act of 1946 by creating a Joint Committee on the Budget to replace the present Joint Committee on the Legislative Budget. The Joint Committee on the Budget is directed under S. 2898 to (1) make a detailed study of the annual budgets of Federal agencies both during and after preparation, (2) provide the Committees on Appropriations with budget items and justifications, (3) report to the Appropriations Committees findings relating to necessary adjustments or revisions in appropriations as may be required to balance the budget, and (4) make recommendations to the appropriate standing committees relative to (*a*) desirable changes in existing law which would effect greater efficiency and economy, and (*b*) matters relating to deviations from basic legislative authority, or use of appropriations in a manner inconsistent with congressional authorization. This joint committee would be composed of five members each of House and Senate Appropriations Committees, constituting a service committee to provide detailed information to all committees of the Congress as to the complete facts relating to the expenditure of Federal funds and the need for reductions in or supplements to existing appropriations.

The Committee on Expenditures in the Executive Departments, to which this bill was referred, postponed action on S. 2898 until the Eighty-second Congress. Another proposal, Senate Concurrent Resolution 18, was introduced on February 17, 1949, which would add an omnibus appropriation bill to the legislative budget requirements of the Legislative Reorganization Act. Although this resolution was reported favorably by the Senate Committee on Rules and Administration (S. Rept. No. 616) on July 7, and passed the Senate on September 28, 1949, the House Committee on Appropriations submitted an omnibus appropriation bill under its existing authority, and failed to act on Senate Concurrent Resolution 18.

Another proposal, Senate Concurrent Resolution 38, introduced on May 11, 1949, provided for the creation of a Legislative Budget Committee consisting of five members each of the House and Senate Appropriations and Revenue Committees. The resolution required that all proposals authorizing appropriations must estimate their costs over a 5-year period or for the duration of the project if for a shorter life. Senate Concurrent Resolution 38 was reported favorably to the Senate on April 14, 1950, by the Committee on Rules and Administration (S. Rept. No. 1487), but Senator Hayden, chairman of the committee, submitted a minority report opposing this action and approving S. 2898, and suggested that the whole matter be held in abeyance until Congress had gained more experience under the omnibus appropriation procedure. Senator Hayden favored S. 2898,

as more practical in acquiring information needed by Congress in considering the Federal budget submitted each year. Senate Concurrent Resolution 38 made no further legislative progress.

Senate Joint Resolution 108 (S. J. Res. 94, S. J. Res. 97, and S. J. Res. 101), reducing Government expenditures.—Senate Joint Resolution 108 required the President to make an over-all cut of not less than 5 percent nor more than 10 percent in total estimated expenditures for the fiscal year 1950 on the basis of appropriations voted for that year; and combined features of Senate Joint Resolutions 94 (Tydings, O'Conor, and Reed), 97 (Wherry, Bridges, and Ferguson), and 101 (Myers). It was filed on June 13, 1949, as a committee resolution by Senator McClellan, and also reported favorably on that date by the Committee on Expenditures in the Executive Departments (S. Rept. No. 498). It failed of adoption by the Senate on August 29, 1949, as an amendment to an appropriation bill after 63 Senators had signed a petition favoring its approval. Although Senate Joint Resolution 108 was thus rejected, a similar provision was adopted as section 1214 of Public Law 759, the General Appropriation Act for 1951, approved September 6, 1950, which requires an over-all reduction of $550,000,000 in 1951 nondefense appropriations and other authorizations.

Senate Joint Resolution 131, requiring the transmission to Congress of an alternate and balanced budget for fiscal year 1951.—This resolution was introduced by Senator McClellan on September 23, 1949, to follow up on Senate Joint Resolution 108, which had been rejected as outlined above. It was designed to indicate possible economies by requiring the President to submit to the Congress, in addition to his regular budget document for the fiscal year 1951, an alternate budget so reduced that total expenditures do not exceed total anticipated Federal revenues. This provision would more adequately equip the Congress to make specific determinations as to whether or not deficits should be incurred, and for what purpose. The substance of Senate Joint Resolution 131 was proposed on September 29, 1949, by Senators McClellan, Ferguson, Byrd, Eastland, and Stennis as an amendment to H. R. 1689, the Executive Pay Raise Act of 1949. The amendment was accepted by the Senate, but was stricken in conference (H. Rept. No. 1411).

Administrative Action

The Commission on Organization recommended that the Federal Government adopt a "performance budget" based upon functions, activities, and projects, and that all budget estimates be divided into current operating expenditures and capital outlays. The initial steps in meeting those recommendations have been taken. The 1951 budget was the first to include schedules for all appropriations showing activities to be performed with the funds requested, and narrative statements describing programs and performance under each activity. Activity schedules also separated major capital programs from operating activities. Currently steps are being taken to strengthen accounting support for budget estimates and to develop better measures of work performance.

The Commission also recommended that the Bureau of the Budget emphasize the development of standards to govern the preparation

of estimates and the development of adequate budget work in the departments. This recommendation is being partially implemented by target budget ceilings for budget planning purposes in the agencies, and staffing guides for the appraisal of staffing requirements in services common to all agencies. The development of improved budgeting on a performance basis is being emphasized through the joint-accounting program and has been given statutory authority under the Budget and Accounting Procedures Act of 1950, and other means. For several years the Bureau has conducted conferences with agency officials on budget formulation and execution. Emphasis has also been placed upon the development of better workload and measurement data for budget submissions.

It is current practice for the divisions of the Bureau of the Budget to work together on review and revision of agency budget estimates, as recommended by the Commission. A consistent effort has been made by all agencies involved to strengthen working relationships among units of the Executive Office and the Treasury Department; this has resulted in joint undertakings and day-to-day consultation on work in process.

The Hoover Commission recommended that forms and questionnaires sent to the public be simplified and that constant effort be made to relieve the burden of those reports on businesses and individuals. The Division of Statistical Standards of the Bureau of the Budget has had this activity as a continuing responsibility for a number of years under the Federal Reports Act of 1942. No action has been taken to date on the Commission's recommendation that the Division be strengthened.

The recommendation that greater use be made of the Census Bureau in the collection and tabulation of data is still being appraised in the light of conflicting Commission recommendations.

The Commission's recommendation that responsibility be fixed for the adequacy of the Federal statistical system is being partially implemented by the Division of Statistical Standards in its review of agency statistical programs as part of the budget process, and by the Budget and Accounting Procedures Act of 1950, which clarified existing law with reference to the supervision and coordination of all Government statistical activities.

The recommendation that spot checks in the field be substituted for the individual audits in Washington requires action by the General Accounting Office. This recommendation has been partially implemented in the matter of civilian payrolls, and the Budget and Accounting Procedures Act provides the necessary authority to fully effectuate this recommendation, consistent with good administrative practices.

Summary

The Budget and Accounting Procedures Act of 1950 (including the Accounting and Auditing Act of 1950) has been acclaimed by all fiscal experts in the Government, and by others familiar with the highly controversial and complex problems involved, as the most progressive step toward modernizing the budget and accounting program of the Federal Government since the enactment of the Budget and Accounting Act of 1921.

The rejection by the Congress of a single recommendation made by the majority of the Hoover Commission—recommendation No. 10, for the creation of an Accountant General—will in no way interfere with the full activation of every other recommendation of the Commission in its report on budgeting and accounting. The act conforms in many respects to the reservations made by Commissioners John L. McClellan, and Carter Manasco in the official Hoover Commission report. For the reasons set forth in those reservations and expressed at the hearings before the committee in opposition to the provisions of S. 2054, the act as approved by Congress represents a real legislative accomplishment under tremendous difficulties. The divergent views in the fields of Federal budgeting and accounting vary from the extreme of vesting all such powers in the President, or an Accountant General responsible to him, which would have destroyed all legislative controls over the appropriation and expenditure of Federal funds, to the point of view which argued for the continuance of the status quo, which the Hoover Commission stated in its final report contained "glaring weaknesses."

In connection with the proposal to establish an Accountant General, the Senate Committee on Expenditures in its report on the Budget and Accounting Procedures Act of 1950 (S. Rept. No. 2031) stated:

> Under a policy established and steadfastly adhered to by the Congress, the Comptroller General of the United States, as an agent of the Congress, has been vested with authority to prescribe accounting requirements for each of the executive agencies as an essential to legislative control of appropriations and expenditures in the executive branch. The committee feels that this long-established policy of Congress is an essential legislative control over public financial transactions, and must be held inviolate. It has therefore rejected this proposal of the Hoover Commission. * * *

The House Committee on Expenditures in its report on the bill stated an identical view. (See H. Rept. No. 2556.)

While specific provisions of law covering other Commission recommendations in this report were not included in the legislative action outlined hereinbefore in this part, sufficient authority already exists to permit of full activation.

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8. NATIONAL SECURITY ORGANIZATION

Action Required To Implement Recommendations

The Bureau of the Budget estimated that a total of 14 separate steps would be required to fully effectuate the six numbered recommendations of the Hoover Commission in this report. The specific recommendations of the Commission are as follows:

No. 1: (*a*) Vest complete fiscal authority in the Secretary of Defense. (*b*) Overhaul the entire military budget system; adopt a performance budget. (*c*) Maintain complete, accurate, and current inventories.

No. 2: (*a*) Center full authority over Military Establishment in Secretary of Defense. (*b*) Revise statutes to vest statutory authority now granted the three services directly in the Secretary of Defense. (*c*) Provide Secretary of Defense with full authority to establish policies and programs. (*d*) Deprive service Secretaries of right of appeal over Secretary of Defense. Designate the service Secretaries as "Under Secretaries for Army, Navy, and Air Force." (*e*) Give Secretary of Defense complete authority over administration of the three services. (*f*) Establish a chairman for the Joint Chiefs of Staff (to be appointed by the Secretary of Defense). (*g*) Center all administrative authority, subject only to the authority of the President, in Secretary of Defense. (*h*) Provide the Secretary with an Under Secretary of Defense. (*i*) Vest full authority over procurement in Secretary of Defense.

No. 3: (*a*) Center military training, education, recruitment, etc., in Secretary of Defense. (*b*) Decentralize recruitment of civilian employees under Civil Service Commission standards. (*c*) Vest authority in Secretary of Defense to prescribe uniform personnel policies.

No. 4: (*a*) Achieve more effective working relations between the Joint Chiefs of Staff and the National Security Council, Central Intelligence Agency, Munitions Board, etc. (*b*) Further define the jurisdiction of the National Security Resources Board. (*c*) Improve the Central Intelligence Agency.

No. 5: Implement the Hoover Commission's recommendations concerning medical activities of the Armed Forces as detailed in Commission Report No. 16 on Medical Activities.

No. 6: (*a*) Complete civilian emergency mobilization plans. (*b*) Continue the use of civilian advisory boards in connection with mobilization. (*c*) Clearly determine responsibility for formulating stockpile policy. (*d*) Take immediate steps to prepare plans for civilian defense and international security. (*e*) Develop defenses against unconventional methods of warfare. Give more attention to psychological warfare. (*f*) Direct National Security Resources Board to develop economic-warfare program.

Although the Bureau of the Budget compiled an analysis as to the methods required to implement these recommendations, no breakdown is included in this report as the following legislative action

obviated the necessity of any other action and fully implemented the Commission's recommendations.

All the bills drafted by representatives of the Hoover Commission as well as those drafted by the Department of Defense and submitted to Congress for introduction to effectuate Commission recommendations were referred to and processed by the Armed Services Committees.

Legislative Action

Public laws

Public Law 36, to amend the National Security Act of 1947 to provide for an Under Secretary of Defense.—H. R. 2216 was introduced in the House by Representative Dewey Short. This bill provided for the establishment of an office of Under Secretary of Defense, to be appointed by the President but to act as an assistant with authority to exercise the power of the Secretary during his absence or disability. The bill was reported on February 17, 1949 (H. Rept. No. 143), passed the House on May 7, 1949, the Senate on March 18, 1949, and was approved by the President on April 2, 1949, as Public Law 36, thereby effectuating recommendation No. 2 (h).

Public Law 216, National Security Act amendments of 1949.—This act contained practically all the Commission's recommendations on the National Security Organization. As passed by the Senate, the act provided for converting the National Military Establishment into an executive department of the Government, to be known as the Department of Defense, changed the composition of the National Security Council, converted the (then) Departments of Army, Navy, and Air Force into military departments without Cabinet status, made the Secretary of Defense the principal assistant to the President on all matters relating to defense, and vested in the Secretary complete authority and control over the administration of the Department of Defense, and authorized the establishment of three Assistant Secretaries of Defense; created the position of Chairman of the Joint Chiefs of Staff and prescribed the duties and responsibility of the Joint Chiefs of Staff, established the Munitions Board as an integrated part of the Department of Defense under the jurisdiction of the Secretary, and made the Research and Development Board a part of the Department responsible for advising the Secretary as to the status of scientific research relative to the national security.

The act further provided for the establishment of a Comptroller of the Department of Defense and a Comptroller for each of the three military departments and authorized the Department of Defense to establish a performance-type budget, modernize its accounting, auditing, statistical and fiscal policies, procedures, and methods over all appropriations and funds under its control. In addition to the foregoing, authority was contained in the act to establish a working-capital fund for financing inventories of stores, supplies, materials, and for financing industrial-type and commercial-type activities of common service within the Department. This act repealed numerous statutes and provisions of law which were archaic, or in complete conflict with the spirit and intent of the National Security Act, as amended, and contained other provisions necessary for effectuating the recommendations of the Hoover Commission.

The Senate bill (S. 1843) was passed on May 26, 1949. The House bill (H. R. 5632) containing only a provision for fiscal and budgetary

improvement was approved by the House on July 18, 1949, was reported on July 18, 1949 (H. Rept. No. 1064).

The Senate, in considering the House bill, struck out all language after the enacting clause and included the provisions of S. 1843 as it originally passed the Senate. Conferees appointed by the House and Senate agreed on the Senate version, and the conference report (H. Rept. No. 1142) was adopted in the Senate and the House on July 28 and August 2, respectively, and approved by the President on August 10, 1949, as Public Law 216.

Public Law 110, to provide for the administration of the Central Intelligence Agency, established pursuant to section 102, National Security Act of 1947, and for other purposes.—This act provides for granting the Central Intelligence Agency necessary authority to improve the internal operation and administration of the Agency in accord with recommendation No. 4 (c) of the Commission's report on the National Security Organization. This law deals with procurement authority and travel allowances for Agency personnel, methods of expenditure of appropriated funds, and other related authorities connected with the administration of the Agency. There are other provisions relating to the internal administration of the Agency which will enable the Agency to protect confidential functions.

H. R. 2663 was introduced in the House on February 14, 1949, reported favorably on February 24, 1949 (H. Rept. No. 160), and passed the House on March 7, 1949. The Senate Armed Services Committee reported the bill favorably on March 10, 1949; it passed the Senate on May 27, and was approved by the President as Public Law 110 on June 20, 1949.

Public Law 581, to provide for the organization of the Army and the Department of the Army, and for other purposes.—This act authorizes the Army and the Department of the Army to maintain the following organizational components; Secretary of the Army, Chief of Staff, Chief of Engineers, Chief Signal Officer, Adjutant General, Quartermaster General, Chief of Finance, Chief of Ordnance, Chief Chemical Officer, Chief of Transportation, Surgeon General, Judge Advocate General, and Chief of Chaplains on a permanent peacetime basis. This organizational pattern retains the best features of the organization which existed prior to World War II and conforms in the main to the organization which was set up during 1942 under the authority of the First War Powers Act. The act does not change the organization, responsibility, or relationship of the Corps of Engineers.

S. 2334 was introduced by Senator Tydings on July 27, 1949. Hearings were held, after which a clean bill was introduced (S. 3691) and reported in the Senate on June 2, 1950 (S. Rept. No. 1776). A companion bill (H. R. 8198) was introduced in the House by Representative Kilday, reported on May 18, 1950 (H. Rept. No. 2110), and passed the House on June 7, 1950. H. R. 8198 passed the Senate with an amendment on June 8, 1950. A conference report was filed (H. Rept. No. 2289) on June 20, 1950, passed the House on June 21 and the Senate on June 20, 1950, approved by the President on June 28, 1950, as Public Law 581.

Public Law 779, to amend the Selective Service Act of 1948, as amended, so as to provide for special registration, classification, and induction of certain medical, dental, and allied specialist categories, and for other purposes.—This act provides for special registration, classification,

and induction into the armed services of doctors, dentists, and allied specialist categories who have not reached the age of 50 at the time of registration. Provision is contained in the act for the establishment of a National Advisory Committee and local advisory groups for the purpose of advising and assisting the Selective Service System; to establish priorities; and authorize the transfer of commissioned officers of the Medical Corps from one branch of the service to another, but no officer shall be transferred without: (1) his consent, (2) the consent of the service from which the transfer is to be made, and (3) the consent of the service to which the transfer is to be made.

This provision is intended to give the Armed Services greater latitude for better utilization of manpower. The provision thus conforms to the Commission's recommendation No. 3 (a), requiring that military education, training, recruitment, promotion, and transfer among the services be placed under the central direction and control of the Secretary of Defense, and recommendation No. 6 (b), that the use of civilian advisory boards be continued.

Senator Gurney introduced S. 4029 on August 9, 1950. It was reported favorably on August 28 (S. Rept. No. 2449) and passed the Senate on August 29, 1950. Representative Vinson introduced a companion bill in the House on August 26, H. R. 9554, which was reported on August 29 (H. Rept. No. 3015). S. 4029, with several perfecting amendments, was passed on August 30, 1950, in lieu thereof, which was approved on September 10, 1950, as Public Law 779.

Reorganization plans

Reorganization Plan No. 8 of 1949, dealing with the National Military Establishment.—This plan was designed to effectuate the provisions of S. 1843, providing for changing the name of the National Military Establishment to Department of Defense, converting the Departments of Army, Navy, and Air Force into executive departments under the direction of the Secretary of Defense, established an office of Deputy Secretary of Defense,[1] abolished the office of Under Secretary of Defense, established three Assistant Secretaries of Defense, abolished the functions of the Secretaries of Army, Navy, and Air Force with respect to their membership on the National Security Council, established the office of Chairman of the Joint Chiefs of Staff, established a Personnel Policy Board and clarified the relationship of the Board and provided for better coordination between the departments and offices to improve administration and facilitate unification of the armed services.

Many of the provisions of this plan were already in S. 1843 and the companion bill (H. R. 5632). Therefore the Senate Armed Services Committee incorporated such plan in the pending bills and inserted the following statement in the committee report (H. Rept. No. 1142):

> Reorganization Plan No. 8 of 1949, which was transmitted to the Congress by the President on July 18, 1949, pursuant to the provisions of the Reorganization Act of 1949, shall not take effect, notwithstanding the provisions of section 6 of such Reorganization Act of 1949.

This amendment was designed to relieve the Congress of the necessity of acting on Reorganization Plan No. 8, and to make the plan inoperative, since it had been effectuated by legislative action.

[1] This position was established by Public Law 36, 81st Cong.

Reorganization Plan No. 4 of 1949, transferred the National Security Council and the National Security Resources Board to the Executive Office of the President.—This plan effectuated the Commission's recommendation No. 4 (a), on the National Security Organization, and is intended to bring about closer relations between the National Security Council, Central Intelligence Agency, Research and Development Board, Munitions Board, and the National Security Resources Board. The plan became effective August 20, 1949.[2]

Reorganization Plan No. 25 of 1950, transferred the functions of the National Security Resources Board to the Chairman and makes the Board advisory to the Chairman.—This plan became effective July 9, 1950.[2]

Other legislative action

S. 1268, to facilitate the acquisition of strategic and critical materials for stockpile purposes.—This bill proposes to create a Strategic Materials Corporation and transfer to it all the functions, powers, and property of the Treasury Department under the Strategic and Critical Materials Stockpiling Act (except secs. 6 (b) and (c) relating to cancellation of Reconstruction Finance Corporation notes, etc.), as proposed in recommendation No. 6 (c); authorizes the President to transfer to the Corporation all the stockpiling functions of any other Government agency; and authorizes the Corporation to issue guaranteed bonds (to mature in 25 years and bear 2½ percent interest) up to 75 percent of the cost of stockpile material. No action has been taken on this bill.

S. 1740, to provide for interservice transfer of commissioned personnel of the Army, Navy, Air Force, and Marine Corps.—This bill would effectuate in part recommendation No. 3 (a) of the Commission report. It would authorize transfer among the armed services of officers who hold permanent commissions, such transfers to be authorized by the President (not Secretary of Defense), with the consent of the officer concerned, the service transferred from, and the service transferred to. The essential features of this measure were incorporated in H. R. 5632 (S. 1843) which became Public Law 216; therefore further action was not required on this bill.

Administrative Action

The Commission on Organization recommended that better relations at the working level should be developed between the Joint Chiefs of Staff on the one hand and the National Security Council, Central Intelligence Agency, Research and Development Board, Munitions Board, and the National Security Resources Board. While Public Law 216, Eighty-first Congress, assisted in implementing this recommendation, a great deal of progress has been made through administrative action. This progress is reflected in the joint memorandum of January 1, 1950, of the Munitions Board and the National Security Resources Board on industrial and economic mobilization; the assignment of the Secretary of the Army to a working group of the National Security Council; the designation of an officer of the Joint Chiefs of Staff to assist the Executive Secretary of the National Security Council; and the strengthening of internal operations in the Central Intelligence Agency and the National Security Resources Board.

[2] For further details regarding these plans, refer to pp. 23 and 27 of this Report on General Management of the Executive Branch.

It was further recommended that the President clarify the jurisdiction of the National Security Resources Board; that emergency mobilization plans be completed promptly and continuously revised; and that preparation of plans for civilian defense, internal security, and economic warfare be expedited.

The jurisdiction of the National Security Resources Board was defined in Reorganization Plan No. 4 of 1949 and in letters from the President on May 24, 1948, and May 3, 1949. Joint memoranda of January 16 and 23, 1950, between the Munitions Board and the National Security Resources Board delineated responsibility for economic and industrial mobilization. Reorganization Plan No. 25 of 1950 vested statutory responsibilities in the Chairman of the National Security Resources Board, thereby making possible more effective operation. The Board has clarified agency responsibilities in the mobilization area. Plans for mobilization and civilian defense are being carried forward as rapidly as possible.

The Commission also recommended that the responsibility for stockpiling policy and program be clearly defined and centralized. This recommendation has been carried out through a study of existing stockpiling practices conducted by the National Security Resources Board. While the study recommended that the existing division of responsibility under Munitions Board policy guidance continue, responsibilities for policy formulation and operations were clearly defined.

The work of the Central Intelligence Agency has been improved as a result of legislative and administrative action. An Interdepartmental Intelligence Committee and an Interdepartmental Committee on Internal Security have been established under National Security Council. Public Law 110, Eighty-first Congress, gave the agency needed administrative authority and facilitated the development of a career foreign intelligence service. The agency has been carrying out the improvements suggested in a 1948 management study by non-Government consultants.

Public Law 216, Eighty-first Congress, requires the armed services to keep complete and accurate inventories as recommended by the Commission.

Summary

As indicated in this report, the majority of the Commission's recommendations on the National Security Organization has been effectuated by enactment of the amendment to the National Security Act of 1947, Public Law 36; the National Security Act Amendments of 1949, Public Law 216; Central Intelligence Agency Act of 1949, Public Law 110; reorganization plans, and by related administrative action taken by the Department of Defense.

9. VETERANS' AFFAIRS

Action Required To Implement Recommendations

The Bureau of the Budget has estimated that implementation of the six recommendations in this report will require nine separate actions. By category of execution, the recommendations are:

Substantive legislation.—Recommendation No. 1 (e), creation of a Veterans Life Insurance Corporation; recommendation No. 4, certification of educational institutions.

Reorganization plan.—Recommendation No. 6, transfer of veterans housing loan guaranty program to Housing and Home Finance Agency.

Administrative action.—Recommendation No. 1 (b), creation of three or more Assistant Administrators and change of title, "Executive Assistant Administrator," to "Deputy Administrator"; 1 (c) consolidation of management service under Assistant Administrator; 1 (f) consolidation of pensions, retirement benefits, disability compensation and guardianships in a Veterans Benefit Service; 1 (g) consolidation of vocational rehabilitation, education, readjustment allowance programs, and certification of loan guaranties in a Readjustment Service; 1 (h) Consolidation of the Office of Legislation with that of the General Counsel; recommendation No. 2, that all central office directives be promulgated by the Administrator. (Note: Recommendation 1 (e) is repeated in the veterans report as recommendation No. 3; recommendation 1 (f) as recommendation No. 5, which are not duplicated herein.)

Implementation of the above-numbered recommendations has been accomplished or has been proposed through legislative action as follows:

Legislative Action

Public laws

Public Law 610—Veterans, schools, regulation of.—Amends Public Law 266, Eighty-first Congress, to provide improved regulation of educational institutions under Servicemen's Readjustment Act. This law partially implements recommendation No. 4 of the Veterans' Affairs Report. S. 2596 reported by Labor and Public Welfare Committee, October 11, 1949 (S. Rept. No. 1156); passed Senate October 12, 1949; reported by House Veterans' Affairs Committee, October 14, 1949 (H. Rept. No. 1444); passed House, amended, May 11, 1950; Conference Report No. 2373 filed June 28, 1950. Approved July 13, 1950, Public Law 610.

Other legislative action

S. 2019 (H. R. 5171 and H. R. 5288), Veterans Insurance Corporation Act.—This bill, introduced by Senator McClellan at the request of the Hoover Commission which drafted it, would consolidate all

veterans' insurance functions in a Government corporation, as recommended above, Nos. 1 (e) and 3. Referred to the Senate Committee on Finance where no action has been taken. H. R. 5171 and H. R. 5288 referred to the House Committee on Veterans' Affairs which has taken no action. (For other legislation affecting veterans see Hoover Commission Report No. 16 on Medical Activities, p. 114, herein.)

Administrative Action

In its report on veterans' affairs, the Hoover Commission recommended that the title of the Executive Assistant Administrator be changed to Deputy Administrator, that there be three or more Assistant Administrators; and that directives from the central office of Veterans' Administration be promulgated by the Administrator. The title has been changed. The positions of Assistant Administrator existed at the time the recommendation was made. All directives are issued by the Administrator or by the Deputy Administrator "for the Administrator," except for the Veterans' Canteen Service which is a self-supporting business.

There has been no action to date on the recommendation that like activities within the Veterans' Administration be organized into an Administrative Service, Benefit Service, and a Readjustment Service; that the Office of Legislation be consolidated with the Office of the General Counsel; and that insurance functions be incorporated into a Veterans' Life Insurance Corporation.

Summary

It follows, from the previous actions, that recommendation No. 1 (b), recommendation No. 2, and recommendation No. 4 of the Veterans' Affairs report have been completely or partially effectuated. No action has been taken upon the remaining recommendations listed above.

10. DEPARTMENT OF COMMERCE

Action Required To Implement Recommendations

The Bureau of the Budget has estimated that 20 steps will be required to implement the 14 recommendations in this report. By category of execution, the recommendations are:

Substantive legislation.—Recommendation No. 2, provide flexibility of business-type management to Maritime Commission under Government Corporation Control Act; No. 10, transfer Office of Defense Transportation from Executive Office of President to Department of Commerce; No. 12, authorize Secretary of Commerce to establish over-all transportation route patterns.

Appropriation legislation.—Emergency mobilization of transportation resources (p. 25, Commerce report, no numbered recommendation) and consolidation of domestic and foreign trade commodity divisions (p. 29, Commerce report, no numbered recommendation).

Reorganization plan.—Recommendation No. 1, that all major nonregulatory transportation functions be consolidated in Commerce; No. 2, that the business operations of the Maritime Commission be transferred to Commerce; page 18 (no numbered recommendation), transfer Coast Guard from Treasury to Commerce; No. 7, transfer Public Roads Administration from Federal Works Agency to Commerce; No. 8, transfer motor carrier safety functions from ICC to Commerce; No. 9, transfer from ICC certain transportation functions to Commerce; No. 5, transfer from CAB to Commerce, promulgation of air safety rules; No. 6, incorporate NACA into Bureau of Civil Aviation in Commerce; No. 12 (see appropriate recommendation under Substantive Legislation); page 7, Commerce report (no numbered recommendation), creation of an Industrial and Commercial Service; No. 13, transfer Bureau of Commercial Fisheries from Interior to Commerce. (The Bureau incorporated recommendation No. 4 (creation of a Bureau of Civil Aviation) in recommendation No. 5 (above) for analysis of effectuation methods.)

Administrative action.—Recommendation No. 3, transfer marine functions of the Bureau of Customs of Commerce; page 25, Commerce report (no numbered recommendation), emergency mobilization of transportation resources; page 29 of Commerce report (no numbered recommendation), reestablish Bureau of Foreign and Domestic Commerce under one official; page 29, Commerce report (no numbered recommendation), consolidate Domestic and Foreign Trade Commodity Divisions; recommendation No. 14, establish Interdepartmental Research Committee.

Implementation of these recommendations has been accomplished, or has been proposed, as follows:

Legislative Action

Public laws

(None.)

Reorganization plans

Reorganization Plan No. 7 of 1949.—Plan No. 7 of 1949, which became effective August 20, 1949, when the Senate rejected Senate

Resolution 155 (Hayden) disapproving the plan (S. Rept. No. 927), on August 16, 1949, transferred the Public Roads Administration to the Department of Commerce in accord with recommendation No. 7 of Hoover Report No. 10. The Senate Committee on Expenditures in the Executive Departments had reported Senate Resolution 155 without Recommendation on August 15, 1949. The Federal Property and Administrative Services Act of 1949 had previously transferred the functions of the Public Roads Administration to the General Services Administrator and changed the name of the Public Roads Administration to the Bureau of Public Roads in the General Services Administration. Public Roads Administration remained in General Services Administration from June 30, 1949, the date Public Law 152 was approved, to August 20, 1949, when this plan became effective.

Reorganization Plan No. 5 of 1950.—This plan, which became effective May 24, 1950, provided for the reorganization of the Department of Commerce in accordance with the Hoover Commission recommendations concerning reorganization of executive departments (recommendations Nos. 14, 16, 18, and 20 of report No. 1 on General Management of the Executive Branch of the Government—see p. 21, herein). The plan transferred to the Secretary of Commerce all department functions except those of hearing examiners of the Civil Aeronautics Board, the Inland Waterways Corporation, and the Inland Waterways Corporation Advisory Board. It authorized the Secretary to delegate functions, to appoint an Administrative Assistant Secretary from the civil service at an annual salary of $14,000 and to make necessary transfers of records, property, personnel, and funds necessary to carry out the plan. House Resolution 546 (Bryson), disapproving plan, reported unfavorably by House Expenditures Committee, May 2, 1950 (H. Rept. 1976). Rejected by House May 18, 1950. Senate Resolution 259 (Wiley), disapproving plan No. 5, reported by the Committee on Expenditures in the Executive Departments without recommendation May 16, 1950 (S. Rept. 1561). The resolution was rejected by the Senate May 23, 1950, by a vote of 29 to 43 (49 affirmative votes being necessary to approve) the plan thus becoming effective May 24, 1950.

Reorganization Plan No. 21 of 1950.—This plan, which became effective May 24, 1950, provided for the abolition of the Maritime Commission. It transferred all its functions to the Department of Commerce and established a Federal Maritime Board, a Maritime Administration, and an Office of Under Secretary of Commerce for Transportation in the Department of Commerce. Functions of the abolished Maritime Commission were redesignated as follows:

To Federal Maritime Board: (*a*) To the Chairman: Executive and administrative functions of present Chairman (including functions transferred by Reorganization Plan No. 6 of 1949); (*b*) to the Board: Regulatory functions over rates, services, practices, tariff rules, etc.; (*c*) subsidy awards, hearings, assignment or transfer of subsidies.

To Maritime Administration: (*a*) The administration of subsidy agreements made by the Board; (*b*) administration of the operating programs, such as ship construction, charter, operation, and sale; (*c*) maintenance and preservation of the reserve fleet, maintenance of Government-owned shipyards and terminals; (*d*) Maritime training program.

The functions transferred to the Maritime Administration were vested in the Secretary of Commerce with authority to redelegate such responsibility to the new Administrator or any other subordinate.

Plan No. 21 established a Federal Maritime Board composed of three members, appointed by the President and confirmed by the Senate. The Board members are to be appointed for terms of 4 years and the President is authorized to designate the Chairman, who is to be the ex officio Administrator of Maritime Administration. Not more than two members of the Board may be of the same political party.

The Board is an agency within the Department of Commerce, but independent in carrying out its responsibility in respect to holding hearings, recruiting and supervision of its regulatory personnel, issuing rules and regulations, establishing rates, tariffs, and related functions, but coordinated with the general policies of the Secretary of Commerce in performing its subsidy functions.

The Chairman of the Federal Maritime Board is to be ex officio Administrator of the Maritime Administration. A Deputy Maritime Administrator is to be appointed by the Secretary of Commerce, after consultation with the Administrator, with the Deputy Administrator under the classified civil service performing such duties as may be prescribed by the Administrator, but is not to sit as a member or acting member of the Federal Maritime Board.

The Hoover Commission recommended (No. 2 in its report on Department of Commerce and No. 9 on regulatory commissions) that the functions of ship construction and the operation, charter, and sale of ships be transferred from the Maritime Commission to the Department of Commerce, and that the functions relating to rates, conditions of service, and the granting of subsidies remain with the Commission.

Reorganization Plan No. 6 of 1949 vested administrative control of the Commission in the Chairman, and Reorganization Plan No. 21 of 1950 is a further step in effectuating a complete revision of the maritime program.

Senate Resolution 265 (Brewster), disapproving Reorganization Plan No. 21, was reported by the Committee on Expenditures in the Executive Departments, without recommendation May 18, 1950 (S. Rept. No. 1674). The resolution was rejected by the Senate on May 19, 1950, by a vote of 14 to 59 (49 affirmative votes being necessary to approve) the plan thus becoming effective May 24, 1950.

Reorganization Plan No. 24 of 1950.—This plan provided for the transfer of RFC to the Department of Commerce where the corporation would be subject to the "supervision, coordination, and policy guidance" of the Secretary of Commerce. The plan was in complete digression from recommendation No. 3 appearing in the Hoover Commission report on the Treasury Department which proposed that RFC be placed in the Department of Treasury. (See also "Federal Business Enterprises," herein.)

House Resolution 648, disapproving plan, reported by House Expenditures Committee, June 23, 1950 (H. Rept. No. 2321), rejected by House June 30, 1950. Senate Resolution 290 (Fulbright), disapproving Reorganization Plan No. 24, was reported by the Committee on Expenditures in the Executive Departments without

recommendation on June 26, 1950 (S. Rept. No. 1867). The Senate approved the resolution of disapproval on July 6, 1950, by a voice vote, thus rejecting the plan.

Other legislative action

S. 2056 (McCarthy) (H. R. 5180), Reorganization of Department of Commerce.—These bills drafted by the Hoover Commission authorize the Secretary of Commerce to reorganize the Department in accordance with the Commission's recommendations, provide an additional Assistant Secretary of Commerce, and include within the Department's functions execution of the Nation's transportation policies. S. 2056 is pending before the Senate Committee on Interstate and Foreign Commerce, H. R. 5180 before the House Committee on Interstate and Foreign Commerce, where no action has been taken to date.

Administrative Action

The Hoover Commission recommended that the Secretary of Commerce prepare plans for the emergency mobilization of transportation resources (p. 25, Commerce report). The National Security Resources Board has assigned this responsibility to the Commerce Department and the Secretary is moving ahead with the development of plans.

The Commission's recommendation that the duplicate commodity divisions for domestic trade and for foreign trade be consolidated and strengthened is now in effect (p. 29, Commerce report). Action to reestablish the Bureau of Foreign and Domestic Commerce under one official will be taken when the classification for the job has been approved.

There has been no action to date on the recommendations that a study be made of the marine functions of the Bureau of Customs for possible transfer to the Department of Commerce, and that an interdepartmental committee of Commerce, Agriculture, State, and Interior be established to determine departmental jurisdictions as to commodity research.

Summary

As outlined above, recommendations Nos. 2, 3, and 7 of the Commerce report, and 14, 16, 18, and 20 of Report No. 1 on General Management of the Executive Branch, have been effectuated through legislative reorganization or administrative action as indicated, although recommendation No. 2 to a partial extent only. In addition, the unnumbered recommendation concerning emergency mobilization of transportation (p. 25, Commerce report) and the unnumbered recommendation concerning consolidation of duplicate commodity divisions (p. 29, Commerce report) have been put into effect through administrative action. No effectuating action has been taken on the remaining recommendations in the Commerce report as listed above.

11. TREASURY DEPARTMENT

Action Required To Implement Recommendations

The Bureau of the Budget analysis estimates that a total of 9 separate steps would be required fully to effectuate 7 of the 10 Hoover Commission recommendations in this report. The three missing recommendations, which are not covered in the analysis, are as follows: Recommendation No. 1, calling generally for department reorganization along functional lines; No. 5, proposing a top staff in the Treasury Department consisting of the Secretary, Under Secretary, and seven heads of functions with assistant secretarial rank, including a New Accountant General; and No. 6, proposing that all Assistant Secretaries, except the Fiscal Assistant Secretary, be appointed by the President with Senate confirmation.

The Budget Bureau analysis also included a tenth action step which is omitted below because it is based on general textual discussion in the report rather than on a recommendation; the subject involved is treated specifically in recommendation No. 10 in Hoover Report No. 7 on Budgeting and Accounting, which proposed a New Accountant General in the Department of the Treasury.

According to action categories, the seven numbered recommendations covered in the Bureau of the Budget analysis are classified as follows:

Substantive legislation.—Recommendation No. 7, proposing that all officials below secretarial rank be appointed by the President without Senate confirmation; No. 8, proposing semiannual Treasury reports on liquidating agencies, with the President assigning the work of liquidation among agencies; and No. 10, urging further study by Congress of a less expensive system of fidelity insurance for Government employees.

Reorganization plans.—Recommendation No. 2, proposing (*a*) that the Treasury Bureau of Supply be transferred to a new Office of General Services, (*b*) that Coast Guard and certain marine functions of the Bureau of Customs go to the Department of Commerce, and (*c*) that the Bureau of Narcotics go to the Department of Justice (separate action steps are assigned to 2 (*a*), 2 (*b*), and 2 (*c*)); No. 3, placing supervision of the Reconstruction Finance Corporation, the Export-Import Bank, and the Federal Deposit Insurance Corporation in the Treasury Department; and No. 4, regrouping activities of the Treasury Department by like functions.[1]

Administrative action.—Recommendation No. 4, regrouping the activities of the Treasury Department by like functions;[2] and No. 9, proposing a National Monetary and Credit Council, chaired by the Secretary of the Treasury, to coordinate Government domestic credit programs.

[1] Listed also under Administrative Action.
[2] Listed also under Reorganization Plans.

Legislative Action

Public laws

Public Law 152, Federal Property and Administrative Services Act of 1949.—Recommendation No. 2 of this report includes the proposal that the Bureau of Federal Supply be transferred out of the Treasury Department into an Office of General Services. Such a transfer to a Bureau of Federal Supply Services in a new General Services Administration was authorized by passage of H. R. 4754 (S. 1809, S. 2020). (For full discussion, see text on Hoover Report No. 3, Office of General Services, p. 42.)

Public Law 656, providing for financing operations of the Bureau of Engraving and Printing.—This act provides a business-type budget, and a revolving-fund method of financing for the operations of the Bureau of Engraving and Printing in the Department of the Treasury. The new basis makes possible less complicated and more understandable financial programs, and better planning and execution.

The Bureau's operations are essentially of an industrial and service nature, involving the production of currency, securities, stamps, and other classes of engraved work for various agencies. All of this work is done for the benefit of such agencies as the Office of the Treasurer of the United States, Bureau of Internal Revenue, Bureau of the Public Debt, the Post Office Department, the Department of Defense, Government corporations, and the Board of Governors of the Federal Reserve System. About two-thirds of the work done for these agencies is financed by annual direct appropriations, and the remainder by reimbursements.

S. 3653 was introduced by Senator McClellan, reported favorably by the Senate Committee on Expenditures in the Executive Departments on June 30, 1950 (S. Rept. No. 1932), and passed the Senate July 26, 1950. A companion bill, H. R. 8662 (Dawson) was reported on July 13, 1950 (H. Rept. No. 2544). S. 3653 was substituted and passed the House on July 27, 1950. It was approved August 4, 1950, becoming Public Law 656.

Reorganization plans

Reorganization Plan No. 1 of 1950, centralizing functions of the Department of the Treasury, except those of hearing examiners and the Coast Guard.—In line with Hoover Commission recommendations, the first six reorganization plans of 1950 submitted by the President centralized in six department heads the functions of as many Cabinet departments. Of these, plan No. 1 transfers to the Secretary of the Treasury all functions scattered throughout the Department, except the functions of hearing examiners and except the operations of the Coast Guard, which becomes a part of the Navy in time of war or when the President so directs. Plan No. 1 also authorizes the Secretary to delegate functions; to appoint an Administrative Assistant Secretary, with the approval of the President, under the classified civil service, at an annual salary of $14,000; and to make those transfers of records, property, personnel, and funds which are required to carry out this plan.

The statutes controlling the Treasury Department lodge most of the departmental functions in its major operating units, and, hence, plan No. 1 would have shifted to the Secretary the powers scattered among the (1) Office of the Comptroller of the Currency, (2) Bureau of

Internal Revenue, (3) Bureau of Customs, (4) Bureau of Narcotics, (5) Bureau of the Mint, (6) Bureau of Engraving and Printing, (7) Fiscal Service, (8) United States Secret Service, and (9) United States Coast Guard.

Banking interests opposed this plan because it was felt that the proposed centralization of Treasury functions would affect adversely the authority of the Comptroller of the Currency. This old Office supervises and controls national banks, especially through regular examinations, meets with the FDIC, and makes reports to Congress.

Two disapproving resolutions were introduced on March 31, 1950, by Senators Robertson (S. Res. 246) and Capehart (S. Res. 247). Senate Resolution 246 was favorably reported on April 25 by the Committee on Expenditures in the Executive Departments (S. Rept. No. 1518) and was adopted in the Senate by a vote of 65 to 13 on May 11, 1950. Reorganization Plan No. 1 was thereby rejected.

Reorganization Plan No. 26 of 1950, same as plan No. 1 of 1950, except that the functions of the Comptroller of the Currency are excluded from its scope.—After rejection of plan No. 1, the President submitted plan No. 26 on May 31, 1950, repeating the provisions of plan No. 1 of 1950 providing for reorganization of the Treasury Department. It exempted, however, the functions of the Comptroller of the Currency. The proposed transfer of the functions of the Comptroller to the Secretary was the factor that had brought about rejection by the Senate.

In view of elimination of the basic opposition to plan No. 1, and since previous hearings had covered the situation, the Committee reported plan No. 26 favorably without waiting for the expiration of the 60-day period required under the Reorganization Act (S. Rept. No. 1869). Since no disapproving resolution was introduced, plan No. 26 became effective July 31, 1950.

Other legislative action

S. 2058 (McCarthy) and H. R. 5174 (Hoffman), to reorganize the Treasury Department.—This rather sweeping Senate bill, to carry out various recommendations of the Hoover Commission, was introduced on June 13, 1949, and referred to the Finance Committee. It proposes four Assistant Secretaries of the Treasury, three to be appointed with the advice and consent of the Senate and one to serve without Senate confirmation as the Fiscal Assistant Secretary. It would abolish any existing statutory status for other Treasury offices and vest all functions in the Secretary. The bill would also establish a National Monetary and Credit Council composed of Government officials, to coordinate monetary policies in various Government agencies. The Secretary of the Treasury would receive broad powers, with the approval of the President, to effect Department reorganizations.

No action was taken on either the Senate bill or on the companion House proposal during the Eighty-first Congress.

Senate Joint Resolution 9 (Tobey) and S. 1559 (Maybank), proposing establishment of a National Monetary Commission.—Senate Joint Resolution 9 was introduced by Senator Tobey on January 5, 1949, and referred to the Committee on Banking and Currency. Subsequently he cosponsored S. 1559 with Senator Maybank on April 11, 1949, and that proposal was similarly referred.

S. 1559, which was more comprehensive than Senate Joint Resolution 9, would establish a bipartisan National Monetary Commission (included also as part of S. 2058 and H. R. 5174, summarized immediately above). The Commission would be directed to inquire into necessary or desirable changes in the banking and monetary system of the United States, or in the laws relating to banking and currency, in the interest of currency stabilization. Appointments to the Commission would be on the same general basis as was used for the Hoover Commission, and would be as follows: Six by the President (three from the executive branch and three from private life), six by the President pro tempore of the Senate, (three from the Senate and three from private life), and six by the Speaker of the House of Representatives (three from the House and three from private life). The Commission would be required to render a final report within 10 days after the Eighty-second Congress convenes.

This Commission would of necessity be concerned with huge financial problems. Thus, there are 30 agencies in the Government actively engaged in lending, and in guaranteeing or insuring loans. They represent an investment of $12,500,000,000, and have further commitments of $9,000,000,000. In addition, $85,000,000,000 of loans or deposits are guaranteed by the Federal Government, and there are about $40,000,000,000 of insurance outstanding for veterans and others.

This proposal would implement recommendation No. 9 of Hoover Report No. 11 on the Treasury Department, which proposed—

> that there be established a National Monetary and Credit Council of domestic, financial agencies in connection with the Treasury to advise on policies and coordination of the operations of domestic lending and Government financial guaranties.

S. 1559 was reported favorably on June 1, 1949 (S. Rept. No. 431), and passed the Senate the following day by voice vote. There has been no action on Senate Joint Resolution 9.

H. R. 8706 (Karsten), providing for purchase of fidelity bonds for Government employees.—The background of this bill consists of a variety of Senate and House bills in this field, and of two identical recommendations by the Hoover Commission.

Senate and House bills approached this subject in different ways. S. 193 (Downey), H. R. 2830 (Holifield), H. R. 2871 (Miller), H. R. 2943 (Multer), and H. R. 4084 (Multer) would leave untouched the present system whereby each Government employee purchases the required amount of fidelity insurance from among an approved list of private companies. They specify, however, that the United States shall then pay the premiums.

On the other hand, S. 1692 (Holland) and H. R. 4642 (Peterson) propose a Government fund to provide protection at Government expense. For this purpose the bills propose a $500,000 trust fund without cost to bonded employees, from which defalcations and other losses would be paid, subject to determination of a board consisting of the Secretary of the Treasury, the Budget Director, and the Comptroller General, and to which fund would be paid amounts recovered in case of defalcation, plus those sums which must be appropriated from time to time to keep the trust fund at minimum levels.

S. 1997 (McCarran) contains the same provisions for a Government trust fund to provide protection, but requires that the fund shall

be maintained at employee expense. So do S. 2515 (Johnston of South Carolina), and H. R. 4002 (Karst) except that their scope would be limited to the Post Office Department. (The latter limitation in scope dictated reference of S. 2515 to the Senate Committee on Post Office and Civil Service, whereas all other Senate fidelity bond bills were referred to the Senate Committee on Expenditures in the Executive Departments.) Most of the bills had the basic motivation of attempting to reduce total insurance costs by limiting required average total payments into the fund to the average total net amounts paid out because of defalcations and other losses.

These pending proposals are merely the latest chapter of much agitation in this area over the years, which prompted two identical Hoover Commission recommendations (No. 10 in Rept. No. 11 on the Treasury Department, and No. 13 in Rept. No. 7 on Budgeting and Accounting), calling for a study of the fidelity bonds now being purchased by Government employees.

Some 560,000 permanent bonded Government officials, and about as many more temporary employees, paid average annual fidelity bond premiums of 1⅔ million dollars over each of the 6 years ending in 1947. In contrast, the losses reimbursed by the companies plus their administrative expenses in handling claims and salvage added up to only one quarter of a million dollars a year, or only 14 percent of annual premium payments. Additional data covering both past legislative history and financial developments are presented on pages 250 to 258 of Senate Report No. 1158, entitled "Progress on Hoover Commission Reports" and issued by this committee on October 12, 1949.

The above Senate bills were the basis of two hearings by a special subcommittee of the Committee on Expenditures in the Executive Departments on February 24 and August 9, 1950. At the first of these two hearings the Association of Casualty and Surety Companies submitted a new plan of bonding Federal employees under blanket fidelity insurance policies. Since the new plan was rather complicated, further hearings were postponed to permit of study by the subcommittee and by all interested persons.

Meanwhile the House Committee on Expenditures in the Executive Departments conducted hearings on March 2, 7, 9, and May 2, and 14, 1950, supplemented by active staff work with Government officials and with representatives of the insurance companies to evolve a plan of less expensive fidelity bonds. As a result, that committee formulated a substitute bill, H. R. 8706, which passed the House on July 17, 1950, and which was the subject of renewed hearings by the Senate subcommittee on August 9, 1950, as indicated above.

After deliberation on subcommittee recommendations, the Committee on Expenditures in the Executive Departments voted to postpone action indefinitely on H. R. 8706. Two reasons dominated this decision by the committee. The first was that the proposal would increase Federal expenditures by not far from $1,000,000 a year, thus running counter to the announced policy of Congress to make every possible reduction in nondefense expenditures during present difficult conditions. Secondly, the committee viewed with concern removing the present requirement that Federal employees pay small annual premiums on their own fidelity bonds, because present personal deterrents against defalcations might thereby be weakened.

It should be pointed out that this negative committee decision with respect to H. R. 8706 is still in conformance with the duplicate Hoover

Commission recommendation in this area, which stopped short of proposing any specific action and merely called for a study of the problem of fidelity insurance. With rare exception Hoover Commission recommendations proposed action rather than further study, and it may therefore be safely assumed that the Commission was in serious doubt as to what specific steps, if any, were justified as to future fidelity insurance requirements for Government employees.

Administrative Action

The Commission on Organization recommended that the functions of the Treasury Department be reorganized into the following major purpose or functional groups: Administrative Service, Revenue Service, Fiscal Service, Banking and International Finance, Office of Liquidation, Accountant General (new), and the three corporations recommended for transfer into the Treasury Department (Reconstruction Finance Corporation, Export-Import Bank, and the Federal Deposit Insurance Corporation).

As to the development of these recommendations, a Fiscal Service and an Administrative Service already exist in the Department, and International Finance is the assignment of one Assistant Secretary. The Accountant General post has not yet been authorized by legislation. The three corporations in question have not been transferred into the Treasury Department.

There has been no action to date on the further recommendation that a National Monetary and Credit Council of domestic financial agencies be established in connection with the Treasury Department, under the chairmanship of the Secretary of the Treasury, to advise on policies and coordination of the Government's domestic credit policies and programs.

Summary

A variety of recommendations for structural changes relative to the Treasury Department dominated this Hoover Commission report. On this score, important favorable action was taken when Congress approved a reorganization plan centralizing in the Secretary of the Treasury full authority over all functions of his Cabinet Department, other than that served by the Comptroller of the Currency. Under that authorization, more detailed phases of internal departmental reorganization are now feasible.

With respect to the proposed transfer of four types of activities out of the Treasury Department, the transfer of three corporations into the Department, and the establishment of a new Accountant General in the Department, Congress has thus far approved the shifting of the former important supply function of the Treasury Department to a newly created General Services Administration. Congress has strongly rejected the proposed new Accountant General as destructive of legislative controls over the appropriation and expenditure of Federal funds.

Among the changes other than structural urged in this Report No. 11 on the Treasury Department is the study urged of advisable changes in the fidelity-insurance requirements for employees of the Federal Government; a subcommittee devoted much time to this subject during this Congress, but legislative action was indefinitely postponed.

12. REGULATORY COMMISSIONS

Action Required To Implement Recommendations

It is estimated by the Bureau of the Budget that 11 steps will be needed to implement the 12 recommendations in this report. By category of execution, the recommendations are as follows:

Substantive legislation.—Recommendation No. 2, members of SEC, FPC, and FCC should be removable only for cause; No. 3, regulatory Commissioners upon expiration of terms should continue to hold office until successor is appointed and qualified; Nos. 4 and 5, increase salaries of Commissioners, board members, and staff members; No. 12, extend bipartisan representation to all commissions.

Reorganization plans.—Recommendation No. 1, vest all administrative responsibility in Chairman; No. 6, authorize Commissioners to delegate routine duties; No. 8, transfer power-planning functions of FPC to Interior; No. 9, transfer business operations of Maritime Commission to Commerce; No. 10, transfer equipment inspection functions of ICC to Commerce; No. 11, transfer promulgation of CAB safety rules to Commerce.

Administrative action.—Recommendation No. 7, Budget Bureau should recommend improvements in Commission administrative procedures.

Implementation of these recommendations has been accomplished, or has been proposed, as follows:

Legislative Action

Public laws

Public Law 858, Civil Aeronautics Act of 1938.—This law authorizes the Civil Aeronautics Administrator to assign certain work, business, or functions to employees under his supervision and to delegate to properly qualified persons certain powers and duties relating to inspection and testing necessary to issuance of certificates and permits for foreign aircraft. S. 450, from which Public Law 858 evolved, was introduced on January 13, 1949, by Senator Johnson of Colorado. The bill was reported in the Senate on July 28, 1949, by the Interstate and Foreign Commerce Committee, (S. Rept. No. 803), and passed the Senate August 9, 1949. It was reported by the House Interstate and Foreign Commerce Committee on September 5, 1950 (H. Rept. No. 3047), and passed the House, amended, September 18, 1950. The Senate having agreed to the House amendments on September 22, 1950, the bill was approved on September 29, 1950, as Public Law 858.

Reorganization plans

Reorganization Plan No. 6 of 1949.—United States Maritime Commission—This plan (1) designated the Chairman of the Commission as the chief executive and administrative officer; (2) transferred to the Chairman the functions of the Commission relating to (*a*) appointment and supervision of personnel; (*b*) distribution of business and

organizational units of the Commission; and (*c*) the use, expenditure, and control of funds for administrative purposes (individual commissioners to select employees under their immediate jurisdiction; the Administrator to consult with other Commissioners before appointing operating heads); (3) authorized the Chairman to delegate authority to subordinates. The plan conforms with recommendation No. 1, and implements recommendation No. 6, of the Hoover Commission report which relates to the "delegation of authority." Reported favorably by the Senate Committee on Expenditures in the Executive Departments, August 4, 1949 (S. Rept. No. 840), the plan became effective August 20, 1949.

Reorganization Plans Nos. 7, 8, 9, 10, 11, 12, and 13, of 1950.—These plans were identical in purpose with the exception of Presidential designation of regulatory commission chairmen as noted below. In broad terms, they proposed to vest all administrative responsibility for day-to-day operations of the ICC, FTC, FPC, SEC, FCC, NLRB, and CAB in each Commission Chairman.

The plans provided for (1) the transfer of all administrative functions from the Commissions to the Chairmen; (2) the redelegation of administrative functions by the Chairmen to Commission officials, employees, and staff units; and (3) for Presidential appointment of Commission Chairmen, except for FCC, NLRB, and CAB, where such authority already is provided by statute.

In addition, plan No. 12 provided specifically for the transfer of the independent functions of the NLRB General Counsel to the NLRB, and abolished the General Counsel's office.

The issue in each was whether the vesting of sweeping administrative powers in individual Commission Chairmen would impair the independence of the Government's regulatory agencies as quasi-judicial arms of the Congress.

Opponents of the plans maintained that placing the responsibilities in the Chairman for appointment of personnel, for distribution of Commission business, and for expenditure of Commission funds would result in that officer's domination of the Commission's operations, thus exerting an undesirable influence upon their regulatory functions. It was held that limitations imposed little if any restraint upon him.

It was also contended that Presidential appointment of Chairmen would enable the Chief Executive, or the administration in power, to exert influence upon the Commissions in the discharge of their regulatory duties.

Opponents of plan No. 12 charged that transfer of the independent functions of the NLRB General Counsel to the National Labor Relations Board would largely destroy the effectiveness of the Taft-Hartley Act, which vested labor-management prosecutory functions directly in the General Counsel rather than in the Board. It was contended that such action would violate the constitutional separation of the investigatory or prosecutory functions from judicial.

In refutation of the above objections, proponents maintained that the plans transferred administrative functions only; that the plans in no way altered, diminished, or modified quasi-judicial or quasi-legislative functions of the regulatory agencies; and that no evidence existed of executive domination of regulatory commissions where the President presently appoints the Chairman.

It was pointed out that the plans reflected the best judgment of the Hoover Commission, stemmed from the best experience in the administration of regulatory commissions in the past, and offered not only greatly improved efficiency but also long-range economies.

The single objective, according to proponents, was to improve the administration, organization, and efficiency of the regulatory commissions affected by eliminating confusion identified with so-called multiheaded direction. Delays, duplication, and absorption of commissioners in minor administrative details such as clerical hiring, stenographic distribution, etc., were presented as glaring examples of mismanagement which require remedying, as proposed by the plans.

It was emphasized that the administrative functions transferred in no manner related to the separation of responsibilities provided by the Administrative Procedure Act of 1946 affecting regulatory agencies.

Action by the Senate on plans Nos. 7, 8, 9, 10, 11, 12, and 13

Plan No. 7 (ICC).—The Senate Committee on Expenditures in the Executive Departments reported favorably Senate Resolution 253 (S. Rept. No. 1567) to disapprove plan No. 7 on May 16, 1950. The Senate adopted the resolution on May 17, 1950, by a vote of 66 to 13. House Resolution 545, disapproving plan, reported unfavorably by House Expenditures Committee on May 1, 1950 (H. Rept. No. 1971), was indefinitely postponed.

Plan No. 8 (FTC).—The Senate Committee on Expenditures in the Executive Departments reported unfavorably Senate Resolution 254 (S. Rept. No. 1562) to disapprove plan No. 8 on May 16, 1950. The resolution failed of adoption in the Senate on May 22, 1950, by a vote of 34 to 37. The plan therefore became effective on May 24, 1950.

Plan No. 9 (FPC).—The Senate Committee on Expenditures in the Executive Departments reported unfavorably Senate Resolution 255 (S. Rept No. 1563) to disapprove plan No. 9 on May 16, 1950. The resolution failed of adoption in the Senate on May 22 by a vote of 37 to 36, 49 votes (a constitutional majority) being necessary to adopt the resolution to disapprove the plan, and the plan became effective on May 24, 1950.

Plan No. 10 (SEC).—No resolution of disapproval was filed upon plan No. 10. The Senate Committee on Expenditures in the Executive Departments reported favorably upon the plan on May 19, 1950 (S. Rept. No. 1685), and it became effective on May 24, 1950.

Plan No. 11 (FCC).—The Senate Committee on Expenditures in the Executive Departments reported unfavorably Senate Resolution 256 (S. Rept. No. 1564) to disapprove plan No. 11 on May 16, 1950. The Senate adopted the resolution on May 17, 1950, by a vote of 50 to 23, thus disapproving the plan.

Plan No. 12 (NLRB).—The Senate Committee on Expenditures in the Executive Departments reported favorably Senate Resolution 248 (S. Rept. No. 1516) to disapprove plan No. 12 on April 24, 1950. The Senate adopted the resolution on May 11, 1950, by a vote of 53 to 30, thus disapproving the plan. House Resolution No. 516, disapproving plan, reported unfavorably by House Expenditures Committee, March 28, 1950, indefinitely postponed.

Plan No. 13 (CAB).—No resolution of disapproval was filed upon plan No. 13. The Senate Committee on Expenditures in the Execu-

tive Departments reported favorably upon the plan on May 19, 1950 (S. Rept. No. 1686). The plan became effective on May 24, 1950.

Other legislative action

S. 2073 (S. 2330, S. 2340, S. 2059, and H. R. 5173), Regulatory Agencies Act of 1949.—These bills, drafted by the Hoover Commission attorneys, conform to recommendations of this report. They incorporate Commission recommendations concerning nine regulatory agencies, viz, ICC, FTC, FPC, USMC, SEC, FCC, CAB, NLRB, and the Federal Reserve System, and were referred to this committee. In agreement with the Chairman, Senator Johnson, chairman of the Senate Committee on Interstate and Foreign Commerce, introduced another bill (S. 2330) implementing those recommendations pertaining to six of the regulatory agencies, viz, ICC, FTC, FPC, USMC, FCC, and CAB, which are within jurisdiction of that committee; and Senator Maybank, chairman of the Senate Banking and Currency Committee, introduced S. 2340, incorporating recommendations concerning SEC and the Federal Reserve System, which are within the province of that committee. This left in S. 2073, the original Regulatory Act of 1949, only one remaining regulatory agency, NLRB. No action was taken on any of these bills the major provisions of which were incorporated in Reorganization Plans Nos. 7 to 13, inclusive, of 1950.

S. 448 (H. R. 4082), to amend Civil Aeronautics Act.—S. 448 now pending before the Senate Committee on Interstate and Foreign Commerce, and H. R. 4082, which passed the House May 16, 1949, and also pending before the latter committee, would authorize the CAB Administrator to assign certain functions to subordinates (Recommendation No. 6), which action has been taken by Reorganization Plan No. 13 of 1950 which became effective May 24, 1950.

S. 440 (H. R. 159).—These bills, which are pending before the respective Senate and House Committees on Interstate and Foreign Commerce, provide that when the term of a member of the Federal Power Commission expires he shall continue to serve until his successor is duly appointed and qualified (Recommendation No. 3). No action has been taken on either of these bills to date.

S. 1626.—Pending before the Senate Committee on Interstate and Foreign Commerce, this bill would raise the salaries of members of the Federal Communications Commission to $15,000, and of the Chairman to $17,500 (recommendations Nos. 4 and 5). Duplicate recommendations in Report No. 2 on Personnel Management.

S. 1973, the Communications Act Amendments of 1949.—This bill would increase the salaries of Commissioners of the Federal Communications Commission from $10,000 to $15,000 a year (recommendations Nos. 4 and 5). (See Personnel Mangement Report, Public Law 359.) S. 1973, which also incorporates other changes in the Communications Act not included in the Commission reports, passed the Senate August 9, 1949, was referred to the House Committee on Interstate and Foreign Commerce.

S. 3339 (Taft).—This bill amends the Labor Management Relations Act of 1947 to raise the salaries of members of the NLRB to $15,000 a year; creates a new independent executive agency, Office of the Administrator of the National Labor Relations Act, with an admin-

istrator at $15,000 per year and a deputy administrator at $12,000 a year, and abolishes the present office of General Counsel of the NLRB; reassigns functions separately between the NLRB and the newly created administrator. Pending before the Senate Labor and Public Welfare with no action taken to date.

Administrative Action

Regulatory commissions

The Hoover Commission recommended that the Bureau of the Budget study and recommend improvements in the administrative procedures of regulatory commissions. This is being accomplished in the course of a broader study by the Bureau. The study will be completed in September 1950.

Summary

Of the 12 recommendations in the Hoover Report on Regulatory Commissions, Nos. 1, 6, and 7 have been effectuated, Nos. 1 and 6 by reorganization plan and No. 7 by administrative action, as outlined above. No. 1, the vesting of administrative responsibility in regulatory commission chairmen, and No. 6, authorizing chairmen of regulatory commissions to delegate routine duties have been made applicable to the following regulatory commissions: Maritime Commission, FTC, FPC, SEC, and CAB. Recommendation No. 7 concerning improvements in administrative procedures will be applicable when implemented by the Bureau of the Budget to all the Government's regulatory agencies. Recommendation No. 9 transferring business operations of the Maritime Commission to the Department of Commerce also has been effectuated by reorganization plan as indicated above but not in the manner proposed by the Hoover Commission as noted. Other recommendations made by the Hoover Commission concerning regulatory commissions await implementation through effectuating action previously discussed.

13. DEPARTMENT OF LABOR

Action Required To Implement Recommendations

The Bureau of the Budget estimates that eight steps are required to implement the eight recommendations of this report. By category of execution, the recommendations are as follows:

Substantive legislation.—Recommendation No. 1, that all officials below the rank of Assistant Secretary be appointed by the Secretary.

Reorganization plan.—Recommendation No. 2, transfer Bureau of Employees Compensation, Employees Compensation Appeals Board, to Department of Labor; No. 3, transfer of Bureau of Employment Security to the Department of Labor; No. 6, merge veterans employment service in Bureau of Employment Security with the Employment Service of the Bureau; No. 4, transfer Selective Service System to Secretary of Labor; No. 5, transfer wage determinations for private seamen from Maritime Commission to Secretary of Labor.

Administrative action.—Recommendation No. 7, focus responsibility in the Bureau of Labor Statistics for collection of price, cost-of-living, employment, and wage data; No. 8, divide industrial hygiene functions between labor and health agencies.

Implementation of these recommendations has been accomplished, or has been proposed, as follows:

Legislative Action

Public laws

Public Law 393, Fair Labor Standards Act of 1949.—This law, approved October 26, 1949, implements the general management recommendation of the Hoover Commission that department heads be given full responsibility for their departments, by transferring the administration of the Fair Labor Standards Act, vested previously in the administrator of the Wage and Hour Division of the Department of Labor, to the Secretary of Labor.

H. R. 5856 (S. 653), Fair Labor Standards Act of 1949.—Reported, Education and Labor Committee, on March 16, 1949 (H. Rept. No. 267); passed House August 11, 1949; S. 653 reported, Senate Labor and Public Welfare Committee, July 8, 1949 (S. Rept. No. 640); H. R. 5856, passed Senate, amended, August 31, 1949; conference Report No. 1453 filed October 17, 1949; approved October 26, 1949, Public Law 393.

Reorganization plans

Reorganization Plan No. 2 of 1949.—This plan, which became effective August 20, 1949, transferred the Bureau of Employment Security from the Federal Security Agency to the Department of Labor, implementing recommendations Nos. 3 and 6 in the Hoover Commission report on the Department of Labor.

Reorganization Plan No. 6 of 1950—Reorganization of the Department of Labor.—Plan No. 6 of 1950 authorized the Secretary of Labor

to delegate functions; to transfer records, property, personnel, and unexpended appropriations; and to appoint an administrative assistant secretary from the classified civil service with the approval of the President at a salary of $14,000 a year. Its major purpose is to vest greater administrative responsibility for operation of the Department directly in the Secretary, in accordance with the recommendations of the Hoover Commission in its report on General Management of the Executive Branch concerning the granting of broader administrative authority to department heads. The plan was reported favorably by the Senate Committee on Expenditures in the Executive Departments (S. Rept. No. 1684) and became effective May 24, 1950, after a resolution of disapproval (H. Res. 522) by Congressman Lucas had been rejected by the House on May 18, 1950.

Reorganization Plan No. 14 of 1950.—This plan, which became effective May 24, 1950, centralized in the Secretary of Labor authority to prescribe uniform labor standards for all Government departments concerned in general conformity with the Hoover Commission's recommendations relative to the rebuilding of the Department of Labor through the centralization therein of functions relating to labor. The plan was reported favorably by the Senate Committee on Expenditures in the Executive Departments (S. Rept. No. 1546) on May 10, 1950.

Reorganization Plan No. 19 of 1950.—This plan, which became effective May 24, 1950, transferred the Bureau of Employees Compensation, the Employees Compensation Appeals Board, and the necessary personnel, property, records, and funds related thereto from the Federal Security Agency to the Department of Labor, in conformity with recommendation No. 2 of the Hoover Commission Report on the Department. The plan was reported favorably by the Senate Committee on Expenditures in the Executive Departments (S. Rept. No. 1549) on May 10, 1950.

Other legislative action

(See S. 3339 (Taft), reorganization of National Labor Relations Board, under regulatory commissions, p. 99 herein.)

Administrative Action

The Hoover Commission recommended that the Division of Statistical Standards in the Bureau of the Budget focus responsibility in the Bureau of Labor Statistics for collection of data, research, and analysis relating to wholesale prices and living costs, employment and unemployment, working hours, wages and payrolls, and productivity. Except for work on price, employment, and unemployment data, the responsibility exists in the Bureau of Labor Statistics. For these areas the Commission made conflicting recommendations which are being studied.

There has been no action to date on the Commission's recommendation that a study of industrial hygiene functions be made to establish a logical division of functions between labor and health agencies.

Summary

As indicated above, recommendations Nos. 2, 3, and 6 of the Department of Labor Report have been effectuated, No. 2 by Reorganization Plan No. 19 of 1950, and Nos. 3 and 6 by Reorganization Plan No. 2 of 1949. In addition, recommendation No. 14 of Report No. 1 on General Management of the Executive Branch, that department heads should be given full responsibility for the operation of their departments, has been effectuated in the Department of Labor by Reorganization Plan No. 6 of 1950. Other recommendations listed at the beginning of this analysis of the Labor report remain to be effectuated through the methods indicated therein.

14. DEPARTMENT OF INTERIOR

Action Required To Implement Recommendations

It is estimated by the Bureau of the Budget that 20 steps will be needed to implement the 15 recommendations in this report. By category of execution, the recommendations are as follows:

Substantive legislation.—Recommendation No. 10, statutes governing the Bureau of Reclamation should be classified and codified.

Appropriation legislation.—Recommendation No. 1, creation of a Board of Impartial Analysis.

Reorganization plan.—(P. 1 of Interior Report, no numbered recommendation), Department of Interior should be responsible for subsoil, water resources, and major public works; recommendation No. 3 (a), transfer Bureau of Indian Affairs from Interior to proposed new Department for Social Security, Education, and Indian Affairs; No. 3 (b), transfer Bureau of Land Management from Department of Interior to Department of Agriculture; No. 3 (c), transfer Commercial Fisheries from Fish and Wildlife Service of Department of Interior to Department of Commerce; No. 4 (a), transfer civil functions of Corps of Engineers to Department of Interior; No. 4 (b) (c), transfer public building construction and community services from Federal Works Agency to Department of Interior; No. 4 (d), make Department of Interior responsible for certain other major Federal construction activities except grants-in-aid programs; No. 8, reorganize Department of Interior into a Water Development Service, Building Construction Service, Recreation Service, and Mineral Resources Service; No. 8, transfer of leasing of mineral lands from Department of Agriculture to Department of Interior; No. 8, transfer investigation into mineral-gas resources from Federal Power Commission to Department of Interior; No. 15, transfer Texas City Tin Smelter from RFC to Bureau of Mines; No. 12, public-works projects on international boundary streams should be a function of the Department of Interior.

Administrative action.—Recommendation No. 1, creation of a Board of Impartial Analysis; No. 4 (a) and No. 9, transfer of civil functions of United States Corps of Engineers to Department of Interior; No. 8, a study should be made of the general-service activities of the FPC, looking toward transfer to Interior; (p. 44, Interior report, no numbered recommendation) proposed Mineral Service should be central informational source concerning mineral resources; No. 11, creation of Drainage Area Advisory Commission; No. 13, Board of Impartial Analysis review of reclamation and irrigation projects; No. 14, RFC should consult proposed Mineral Service in making loans.

Recommendation No. 2, that the Department of Interior be thoroughly reorganized along major-purpose lines, was not incorporated in the Bureau of the Budget analysis because other recommendations, as noted above, implement recommendation No. 2. Recommendations Nos. 5, 6, and 7 also were not incorporated in the analysis because they adhere to general reorganization principles recommended specifi-

cally in Hoover Report No. 1 on General Management of the Executive Branch, which is covered by the Bureau of the Budget in its analysis of report No. 1.

Implementation of these recommendations has been accomplished, or has been proposed, through legislative action, as follows:

Legislative Action

Public laws

Public Law 352—Public works planning.—This act (Chavez and others) authorizes $100,000,000 for distribution by the General Services Administration to the States for architectural, engineering, and economic surveys for the construction of Federal public works. S. 2116 (H. R. 5739), reported by Public Works Committee (S. Rept. No. 751), passed Senate September 23, 1949; H. R. 5739, reported by Public Works Committee July 26, 1949 (H. Rept. No. 1131); S. 2116 passed by House in lieu October 3, 1949; approved October 13, 1949, as Public Law 352.

Reorganization plans

Reorganization Plan No. 3 of 1950.—This plan vests in the Secretary of Interior responsibility for all operating divisions of the Department except for the functions of hearing examiners, the Virgin Islands Corporation, and its officials, in accordance with departmental management recommendations of the Hoover Commission concerning the granting of full administrative responsibility to Cabinet department heads, and recommendations Nos. 3, 4, and 5 of the Department of Interior report, as further noted below. The plan authorizes the Secretary of Interior to delegate functions, to appoint an administrative Assistant Secretary from the Civil Service subject to the approval of the President at a salary of $14,000 a year, and provides for the appointment of an additional Assistant Secretary of the Interior by the President subject to confirmation by the Senate, at the prevailing secretarial salary. Reported favorably by the Senate Committee on Expenditures May 10, 1950 (S. Rept. 1545), plan No. 3 of 1950 became effective May 24, 1950, no resolution of disapproval having been filed against it.

Reorganization Plan No. 15 of 1950.—This plan transfers functions relating to public works in Alaska and in the Virgin Islands from the General Services Administration to the Department of the Interior. It is designed to consolidate functions formerly vested in the General Services Administration with other programs lodged in the Department of the Interior relating to the long-range interests of inhabitants of Alaska and the Virgin Islands, so that Federal policies and programs for promoting the general welfare of the people of these possessions may be properly coordinated. The plan, through centralization of such functions in a single agency, is intended to reduce duplication of effort and facilitate administration.

The Hoover Commission made no specific recommendation relating to this plan. The Commission did recommend (No. 2, Department of the Interior) that the Department of the Interior be "reorganized along more functional and major purpose lines," and that community services (including public works) be transferred to the Department of the Interior, because of the "major purpose" aspect (recommendations Nos. 4 and 8, Department of the Interior).

No resolution of disapproval was submitted in the Senate. The committee filed a favorable report on the plan on May 10 (S. Rept. 1547) to the effect that it was in general conformity with the purposes and recommendations of the Hoover Commission, and would bring about economy and efficiency. Since no action was taken in the House or the Senate to disapprove the plan, it became effective on May 24, 1950.

Other legislative action

S. 2057 (McCarthy) and H. R. 5176 (Hoffman).—These bills, drafted by the Hoover Commission, would give the Secretary of the Interior, with the approval of the President, broad powers to effect reorganizations in the Department of Interior. They direct the Secretary to codify existing reclamation laws (recommendation No. 10, Rept. No. 14), authorize the President to appoint two additional Assistant Secretaries of Interior, subject to consent of the Senate (recommendation No. 5, Rept. No. 14), and establish a five-man Board of Analysis for engineering and architectural projects to assist the President in developing a Nation-wide public-works program (recommendation No. 1, Rept. No. 14). S. 2057 is pending before the Committee on Interior and Insular Affairs and H. R. 5176 before the Committee on Public Lands, with no action taken on either bill.

S. 2833 (Cain), S. 3657 (Douglas); H. R. 5469, 6317, and 8663 (White), and H. R. 6920 (Douglas).—These bills have as their major purpose the transfer to the Department of Interior of the functions (1) the United States Corps of Engineers from the Department of the Army, (2) the Bureau of Community Facilities from the General Services Administration, and (3) the tin-smelting facilities at Texas City, Tex., from RFC in furtherance of the Hoover Commission recommendations Nos. 4, 9, and 15, Report No. 14, providing for the consolidation of major public-works activities within the Department of Interior as recommended by the Commission in Report No. 14. They each also create a Board of Analysis for public-works projects to examine, analyze, and make recommendations upon all major public works constructed by the Federal Government, or with the aid of Federal funds, excepting projects directly related to military defense. S. 2833, H. R. 6317, and H. R. 6920 incorporate the provisions of S. 2057 described above concerning codification of the reclamation laws, the appointment of additional Assistant Secretaries of Interior, and the granting of broad reorganizational authority to the Secretary of Interior as the Hoover Commission recommended. In addition, S. 2833 transfers from the Secretary of the Interior certain functions of the Bureau of Indian Affairs (to the Federal Security Agency), of the Bureau of Land Management (to the Department of Agriculture), and of the Fish and Wildlife Service (to the Department of Commerce), as recommended by the Hoover Commission in the above-numbered report (recommendation No. 3). S. 2833 was referred to the Senate Committee on Expenditures; S. 3657 to the Senate Committee on Public Works; H. R. 5469, H. R. 6317, H. R. 6920, and H. R. 8663 all to the House Committee on Expenditures, which committees have taken no action to date.

S. 2105 (O'Mahoney), National Minerals Act of 1949 (S. 2230 (Ecton), S. 240 (Murray); H. R. 976 (Engel), and H. R. 5725 (Engel)).—These bills have as their related major purpose the explora-

tion, development, and conservation of strategic minerals in general conformance to the recommendations of the Hoover Commission in Report No. 14 (pp. 43, 44, and 45). S. 2105 passed the Senate October 6, 1949, but failed of passage in the House October 17, 1949. S. 240 was reported August 26, 1949 (S. Rept. 958), by the Committee on Interior and Insular Affairs; H. R. 976 was reported May 31, 1949, by the House Committee on Public Lands (H. Rept. 709); H. R. 5725 was reported July 26, 1949, by the House Committee on Public Lands (H. Rept. 1135), and no action has been taken by the Committee on Interior and Insular Affairs on S. 2330, the provisions of which are incorporated in S. 2105

S. 2726 (Malone).—This bill directs the Secretary of the Interior to emancipate all Indians within 10 years in line with recommendations of the Hoover Commission in its report on social security, education, and Indian affairs for the gradual assimilating of Indians into the population of the Nation. It is pending before the Senate Committee on Interior and Insular Affairs.

Administrative Action

The Hoover Commission recommended that the Department of the Interior be organized into a Water Development and Use Service, a Building Construction Service, a Recreation Service, and a Mineral Resources Service, and that the Division of Territories and Island Possessions remain in the Department until a new policy for oversea areas is established. The Secretary of the Interior on July 17, 1950, issued an order, under authority of Reorganization Plan No. 3 of 1950, designating an Assistant Secretary for each of the following areas: mineral resources, public-land management, and water and power development. The Division of Territories and Island Possessions has remained in the Department.

There has been no action to date on the recommendations that a study be made of the general-survey activities of the Federal Power Commission for possible transfer to the Interior Department; that a Board of Impartial Analysis for Engineering and Architectural Projects be created in the President's office to review project proposals of the Department of the Interior; that a Drainage Area Advisory Commission of representatives of Interior, Agriculture, and each State involved be created for each major drainage area; and that no irrigation or reclamation project be undertaken without a report by the Department of Agriculture to the Board of Impartial Analysis.

Summary

The foregoing text discloses that recommendations Nos. 2, 4, and 5 of the Hoover Commission Report on the Department of the Interior and recommendation No. 14 of the Hoover Commission Report on General Management of the Executive Branch have been effectuated through reorganization plans as noted. In addition, recommendation No. 8 of the Interior report has been partially implemented by administrative action, as noted above. No effectuating action has been taken on the remaining recommendations in the Interior report, as listed above.

15. SOCIAL SECURITY, EDUCATION, AND INDIAN AFFAIRS

Action Required To Implement Recommendations

It is estimated by the Bureau of the Budget that 17 steps will be required to implement the 17 recommendations (8 in pt. I and 9 in pt. II) in this report. By category of execution, the recommendations are as follows:

Substantive legislation.—Recommendation No. 1 of part II (Indian affairs) providing for integration of Indians into the population; No. 2 of part II (Indian affairs) pending complete integration, responsibility for Indians should be progressively transferred to State governments; No. 6 of part II (Indian affairs), all Indian business enterprises should have a board of directors and a charter incorporating the basic objectives of the enterprise.

Reorganization plan.—Recommendation No. I, part I (social security and education), that a new department to administer social security, education, and Indian activities be established; No. 2, new department to be staffed by a Secretary, Under Secretary, two Assistant Secretaries, and an Administrative Assistant Secretary, all to be appointed by the President subject to confirmation by the Senate, with the exception that all below the rank of Assistant Secretary be appointed by the Secretary; No. 8, the Bureau of Indian Affairs be transferred from the Department of Interior to the new proposed Department of Welfare. (Repeated as recommendation No. 9 of pt. II on Indian Affairs.)

Administrative action.—No. 3 of part I (social security and education), that the Children's Bureau be divested of grant functions and reoriented, in a general-staff capacity, to the Secretary of Welfare; No. 4, that a complete review of the Federal old-age and survivors insurance program be made; No. 5, that a study be made to determine whether the various Federal retirement systems should be merged; recommendations 1, 2, and 3 of part II (Indian affairs), listed under subheading "Substantive legislation," above, are repeated as also requiring administrative action; No. 3, part II (Indian affairs), that local, State, Federal Government concerned should participate in a comprehensive program to raise the living, cultural, and business standards of Indians; No. 8, part II, that the Commissioner of Bureau of Indian Affairs should be a permanent professional administrator appointed by the Department head to whom the Indian Service is attached. (Transfer of various components from the Federal Security Agency to other departments of Government are recommended in the Hoover Commission reports on the Department of Labor, p. 101 herein; the Department of Agriculture, p. 63 herein; and Medical Activities, p. 114 herein.)

(Recommendations Nos. 4, 5, and 7 of pt. II are not covered in the Bureau of the Budget analysis apparently because they are incorporated in other recommendations or because the analysis does not appropriately apply to them.)

Implementation of these recommendations has been accomplished, or has been proposed, as follows:

Legislative Action

Public laws

Public Law 180.—This act, approved July 21, 1949, consolidated the Alaska Railroad Retirement Act and the Canal Zone Retirement Act with the Federal Civil Service Retirement Act to bring the subject employees under the last-named act in conformance with recommendation No. 5 of the Hoover Commission Report No. 15. S. 1359, reported by Post Office and Civil Service April 15, 1949 (S. Rept. No. 269), passed Senate June 21, 1949; H. R. 3445 reported by Post Office and Civil Service June 8, 1949 (H. Rept. No. 762). S. 1359, passed in lieu July 6, 1949, approved July 21, 1949.

Public Law 734.—This act, approved August 28, 1950, expands coverage of the Social Security Act, increases by an average of approximately 95 percent payments to beneficiaries and makes other far-reaching improvements in operation of the act. The act is in general conformity with the Hoover Commission recommendations for a thorough revision of the social-security system. H. R. 6000, reported by Ways and Means Committee August 22, 1949 (H. Rept. No. 1300), passed House October 5, 1949; reported in Senate May 17, 1950, Finance Committee (S. Rept. No. 1669), passed Senate, amended, June 20, 1950; Conference Report No. 2771 filed August 1, 1950; Public Law 734, August 28, 1950.

Reorganization plans

Reorganization Plan No. 1 of 1949.—This plan, which would have constituted the Federal Security Agency a Department of Welfare, elevating the Federal Security Administrator to Secretary of Welfare and vesting responsibility for health, education and welfare activities in him, was rejected August 16, 1949, when the Senate adopted Senate Resolution 147 (Senators Fulbright, Taft, and Hunt), which had been reported favorably by the Senate Committee on Expenditures in the Executive Departments, thus disapproving the plan. The plan deviated broadly from the Hoover Commission's recommendations chiefly with reference to the creation of a proposed United Medical Administration as recommended in Report No. 16 on Medical Activities.

Reorganization Plan No. 27 of 1950.—Plan No. 27 would have constituted the Federal Security Agency as a Department of Health, Education, and Security, but would have retained the semi-independent status of the United States Public Health Service and the Office of Education, as presently provided by the Congress. However, plan No. 27, like plan No. 1 of 1949, among other differences from the Hoover Commission recommendations regarding these activities, made no provision for the establishment of a United Medical Administration to consolidate the Public Health Service with other Federal medical activities. The plan was rejected by the Congress when the House adopted House Resolution 647 (Hoffman), expressing disapproval of the proposal, on July 10, 1950. The Senate Committee on Expenditures in the Executive Departments had expressed its disapproval of plan No. 27 on July 10, 1950, by approving Senate Resolution 302 (Taft), disapproving the plan (S. Rept. No. 1943), but the Senate had not taken action when the House approved House Resolution 647.

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Reorganization Plan No. 16 of 1950.—This plan transferred Federal financial assistance to local public-school districts and for water-pollution control from the General Services Administration to the Federal Security Agency. It accords with the Hoover Commission's recommendations that Federal-State relations be concentrated where feasible within the Federal Security Agency in order to group major-purpose functions together in a single agency. Plan No. 16 was reported favorably by the Senate Committee on Expenditures May 10, 1950 (S. Rept. No. 1548), and, in the absence of a resolution expressing disapproval, became effective May 24, 1950.

Other legislative action

H. R. 782, constituting the Federal Security Agency a Department of Welfare.—This bill, drafted by the Federal Security Agency, was introduced in the House of Representatives on January 5, 1949, and referred to the Committee on Expenditures in the Executive Departments. The committee reported it favorably on February 15, 1949 (H. Rept. No. 122). Its major provisions were:

> Section 1 of H. R. 782 converts the Federal Security Agency into an executive department to be known as the Department of Welfare, changes the title of its head from Federal Security Administrator to Secretary of Welfare, to be appointed by the President with the advice and consent of the Senate, and describes the general field in which the new Department will be responsible. It neither adds to nor subtracts from the functions now performed by the Federal Security Agency.
>
> Section 2 provides for an Under Secretary and two Assistant Secretaries, all appointed by the President with the advice and consent of the Senate.
>
> Section 3 confers upon the Secretary the powers and functions of the officers and units of the Federal Security Agency, and authorizes the Secretary to delegate powers to appropriate officers and units of the Department.

This bill was superseded by Reorganization Plan No. 1 of 1949.

S. 2060 (H. R. 5175), to establish a Department of Welfare.—The attorneys for the Hoover Commission submitted to the chairman of the Senate Committee on Expenditures in the Executive Departments a draft of a proposed bill to establish the Department of Welfare as an executive department to conform to the Commission's recommendations.

The bill was introduced in the Senate by Senator McCarthy as S. 2060 on June 13, and in the House of Representatives by Representative Hoffman (H. R. 5175) on June 15, 1949. It provided for the establishment of a Department of Welfare as an executive department, a Secretary of Welfare, an Under Secretary, and three Assistant Secretaries, all to be appointed by the President with the advice and consent of the Senate. It also transferred to the new Department designated functions of the Federal Security Agency and the Federal Security Administrator, and the functions of the Bureau of Indian Affairs in the Department of the Interior.

S. 2060, in the nature of a substitute (H. R. 184), to create a Department of Health, Education, and Security.—Following the action of the committee in reporting favorably a resolution of disapproval of Reorganization Plan No. 1, Senator McCarthy introduced, on August

5, a substitute for S. 2060, previously introduced in the House as H. R. 184, both of which were identical to S. 140 of the Eightieth Congress. S. 140 was reported favorably by the Committee on Expenditures in the Executive Departments on June 6, 1947. The following pertinent information is quoted from the report (S. Rept. No. 242, 80th Cong.):

The primary purpose of the legislation is to elevate the existing health, education, and public-welfare agencies into a departmental status. In order that this purpose be made clear and to insure that no additional authority is granted to the new Department under the provisions of the act, the bill was amended to provide that it does not give the new Department any functions other than those authorized by previous legislation affecting the Federal Security Agency or any of the components thereof. While section 4 outlines these purposes in detail, the committee was assured by the sponsors and by officials of the agencies affected that the language used authorizing the promotion, encouragement, and development of policies designed to promote the general welfare of the people was already authorized under previous acts.

The original bill set forth specific professional qualifications for each of the Under Secretaries. In view of the opposition that developed during the hearings, the professional qualifications were omitted. It is the opinion of the committee that the President should not be restricted to limited fields in the selection of qualified administrative officers, and that it is more essential to appoint officials with high administrative qualifications than might otherwise be possible if the selection is limited to persons with specialized professional training. The removal of professional discriminations will also tend to eliminate the possibility that a professional appointee might adopt biased policies detrimental to the unification of programs designed to coordinate the various agency activities within the Department. This provision would not however preclude the selection of an Under Secretary who is trained in one of the professions, if he possesses the necessary qualifications as an administrative officer, but is merely designed to extend the selection to the entire field of activity. Most of the witnesses who favored removal of the professional qualifications also expressed themselves as favoring the appointment of a doctor of medicine as Under Secretary of Health, provided he had the necessary administrative qualifications.

It was the contention of representatives of both the medical and educational groups that each of these services is of such importance as to be entitled to separate departmental status. The committee, however, was of the opinion that there was little chance that three such departments would be created by Congress and that there was no real need for three separate departments covering each of these fields of activity. To establish them would be contrary to the policies of the Congress in its effort toward economy and the elimination of emergency and independent agencies. The basic effort should be to coordinate and consolidate governmental activities into one department particularly where functions are interrelated, in the interest of economy and efficiency of administration.

The various fields covered in the proposed new Department are all related activities, in many instances covering overlapping functions, and, in the opinion of the committee, more expeditious administration in the public interest would be possible under the usual departmental set-up under which a Secretary would operate through an Under Secretary and Assistant Secretaries as his administrative assistants. However, in deference to the wishes of these professional groups, and in an effort to overcome these objections, three separate bureaus have been included in the bill.

A primary consideration in the adoption of this formula was the alleged subordination of the health program to other activities within the present Federal Security Agency. It is designed to encourage the medical groups to establish a comprehensive program within the proposed Department rather than to press their present efforts to create an independent health agency.

No attempt has been made in this bill to define the activities or functions, or to set forth a program relative to any of the specific bureaus established, other than the assignment of respective bureau activities to the jurisdiction of the appropriate Under Secretary, inasmuch as it was determined that this was a function of the Committee on Labor and Public Welfare, before which bills relating to the extension of programs and policies in these fields of activity are now pending.

S. 2060 (in the nature of a substitute) would raise the Federal Security Administrator to the status of Secretary of a new Department of Health, Education, and Security, but differs from Reorganization Plan No. 1, in that it would authorize autonomous status for each of the three main functions of the Department. Under Secretaries of Health, Education, and Public Welfare would be created, to head (1) a Bureau of Health, to which would be transferred St. Elizabeths Hospital, Freedmen's Hospital, the United States Public Health Service, and the Food and Drug Administration; (2) a Bureau of Education, to which would be transferred the United States Office of Education; (3) a Bureau of Public Welfare, to which is transferred the Social Security Administration.

It would restrict the authority and appropriations to limitations established for the Federal Security Agency, and the Director of the Bureau of the Budget would be required to make a continuous study of the activities of the various departments and agencies not now included in the Federal Security Agency, with a view to determining whether such activities should be transferred to the new Department.

S. 2060, as amended, differs materially from the original S. 2060, which omitted all health functions and certain other activities relating to unemployment security, some of which were transferred to the Department of Labor under Reorganization Plan No. 2 of 1949, and from H. R. 782 in that it maintains a certain autonomy for each of the major activities incorporated in the new Department, retaining certain functions in the respective Under Secretaries which would have been vested in the Secretary in the latter bill. It also differs from Reorganization Plan No. 1, inasmuch as it retains the present status of the existing services which would have been vested in the Secretary of Welfare with power to transfer or allocate the functions involved.

S. 2060 (in the nature of a substitute) was superseded by Reorganization Plan No. 27 of 1950.

S. 2726, to abolish the functions of the Bureau of Indian Affairs of the Department of the Interior, to remove the guardianship over Indians and trusteeship over Indian lands, and to repeal the act of June 18, 1934.—S. 2726 was introduced on October 17, 1949, by Senator Malone and was referred to the Committee on Interior and Insular Affairs. Recommendations Nos. 1 and 2 of the Report on Indian Affairs provide for the integration of the Indians into the rest of the population and for the progressive transfer of the administration of Indian social programs to State governments. S. 2726 would carry out these recommendations designed to gradually discontinue all specialized Indian activity by the Federal Government, and in addition would provide that this be accomplished within 10 years of the date of the enactment of the bill. No action was taken on the bill.

H. R. 1402 (Miller).—This bill would establish a Department of National Health and Welfare headed by a Secretary of Cabinet rank in which would be centralized all Federal activities relating to health and welfare. Referred to House Committee on Expenditures in the Executive Departments where no action was taken.

Administrative Action

The Hoover Commission recommended that a complete review of the old-age and survivors insurance program be conducted. This review was made in preparing the Social Security Act of 1950.

The Commission also recommended that a study be made of the desirability of the merging of the several Federal contributory retirement systems. This study is being made by a private firm under Bureau of the Budget sponsorship and utilizing the President's Management Improvement Fund.

There has been no action to date on the recommendation that the grant-in-aid programs be removed from the Children's Bureau and the Bureau made staff to the agency head.

Substantive legislation is necessary before administrative action can be taken on the following recommendations: The Federal Government should initiate progressive measures to integrate the Indians into the rest of the population; the administration of social programs for the Indians should be progressively transferred to State governments; business enterprises for the Indians should be placed on a corporate or cooperative basis; and the administrative supervision of business enterprises by the Indian Bureau should be gradually relaxed and ultimately discontinued.

Summary

As noted above, recommendation No. 4 has been effectuated by Public Law 734, the Social Security Act of 1950. Recommendation No. 5 was partially implemented by Public Law 180 and through administrative action taken by the Bureau of the Budget as indicated above. No effectuating action has been taken on the remaining recommendations in the report on social security, education, and Indians.

16. MEDICAL ACTIVITIES

Action Required To Implement Recommendations

The Bureau of the Budget analysis estimated that a total of 13 steps would be necessary to place in operation the 10 recommendations made in Hoover Report No. 16 on Medical Activities. By action categories, the numbered recommendations are classified as follows:

Substantive legislation.—Recommendation No. 1, consolidating major Federal medical activities in a proposed United Medical Administration;[2] and No. 5, proposing that Congress define beneficiaries entitled to Government medical care.

Appropriation legislation.—Recommendation No. 6, eliminating inconsistencies in Federal hospital programs and aid;[1] and No. 10, proposing survey of needs of medical schools.[1]

Reorganization plans.—Recommendation No. 1, consolidating major Federal medical activities in a proposed United Medical Administration;[4] No. 3, authorizing the President to appoint three Assistant United Medical Administration Administrators with the consent of the Senate; No. 4, transferring to United Medical Administration the functions, facilities, and personnel of military, veterans, Public Health Service, and Canal Zone hospitals; and No. 7, placing control of military medical policy in the Secretary of Defense.

Administrative action.—Recommendation No. 2, creating a United Medical Administration Advisory Board of Government health officials; No. 6, eliminating inconsistencies in Federal hospital programs and aid;[3] No. 8, directing United Medical Administration to give constant attention to defense measures; No. 9, placing medical and technical United Medical Administration personnel on a career service basis; and No. 10, proposing survey of needs of medical schools.[3]

Legislative Action

Public laws

Public Law 380, hospital survey and construction amendments of 1949.—This legislation extends the duration of the Hill-Burton, or Hospital Survey and Construction Act (60 Stat. 1040) from 1951 to 1955; increases the annual sum authorized to be appropriated for assisting the States in constructing public and nonprofit hospitals from $75,000,000 to $150,000,000 during the five fiscal years 1950 to 1954, inclusive; and increases the Federal share for individual construction projects from the present flat 33⅓ percent to a variable grant formula ranging up to twice that percentage. It authorizes the Surgeon General to conduct, and make grants for the conduct of research, experiments, and demonstrations relating to the effective development and utilization of hospital services and facilities; and grants additional Federal aid to States to assist hospital construction.

[1] Listed also under "Administrative action."
[2] Listed also under "Reorganization plans."
[3] Listed also under "Appropriation legislation."
[4] Listed also under "Substantive legislation."

While this act is not directly related to any Hoover Commission recommendation, it is included here because it bears on recommendation No. 6 of this report which urges the end of inconsistency of policy between the Federal hospital construction program, and aid to non-Federal hospitals under the Hill-Burton Act.

Public Law 380 is based on S. 614, introduced by Senators Hill, Taft, Ellender, and Smith of New Jersey, on January 24, 1949. S. 614 was reported by the Senate Labor and Public Welfare Committee on July 26, 1949 (S. Rept. No. 790), passed the Senate on August 19, 1949, and the House on October 3, 1949, and became Public Law 380 on October 25, 1949. The companion bill, H. R. 5903 (Priest) was reported by the House Interstate and Foreign Commerce Committee on August 25, 1949 (H. Rept. No. 1325), but the Senate bill was then substituted. Similar proposals were also contained in the three omnibus health bills, S. 1581, S. 1679, and S. 1970, which are discussed below.

Public Law 692, authorizing research institutes on various diseases.—This act is designed to improve general health through research on causes, prevention, diagnosis, and treatment of arthritis and rheumatism, multiple sclerosis, cerebral palsy, epilepsy, poliomyelitis, blindness, leprosy, and other diseases. For this purpose the act authorizes, among other efforts, the establishment of research institutes to deal with groups of the above diseases, and to be organized on the basis used for national cancer, heart, and dental institutes. Advisory councils are approved for each institute. Grants-in-aid and traineeships are to be established by the Surgeon General.

This legislation, based primarily on S. 2591, introduced by Senator Pepper and others on September 22, 1949, after committee hearings and deliberations, consolidates various bills dealing usually with a single disease which were inspired to a large degree by Hoover Commission Report No. 16 on Medical Activities. It was reported by the Senate Labor and Public Welfare Committee on September 22, 1949 (S. Rept. No. 1102), passed the Senate on September 28, 1949, was reported by the House Interstate and Foreign Commerce Committee on September 28, 1949, passed the House on July 10, 1950, and became Public Law 692 on August 15, 1950.

The companion bill, H. R. 3943 (Priest), was reported by the House Interstate and Foreign Commerce Committee on June 27, 1950 (H. Rept. No. 2352), but S. 2591 was then passed in lieu. Related bills are S. 2584 (Pepper et al.), and title II of omnibus health bill, S. 1679 (Thomas of Utah, et al.).

Reorganization plans

Reorganization Plan No. 1 of 1949, providing for a Department of Welfare.—This plan proposed changing the name of the Federal Security Agency to a "Department of Welfare" which was to be a new executive Department. Since the varied activities of the Public Health Service are part of the FSA, the new Department would include present medical, health, hospital, and related functions within its scope. Hence it is here mentioned briefly; for a full discussion see Hoover Report No. 15, Social Security, Education, and Indian Affairs, page 108.

Senate resolution No. 147, proposing disapproval of plan No. 1, was favorably reported by the Senate Committee on Expenditures in the

Executive Departments on August 8, 1949 (S. Rept. No. 851), and adopted by the Senate on August 16, 1949. Plan No. 1 was thereby rejected.

Reorganization Plan No. 27, of 1950, to create a Department of Health, Education, and Security.—Like plan No. 1 of 1949, this plan transfers to the proposed new executive Department all the functions and agencies of the Federal Security Agency. However, last year's plan centered all statutory authority in the Secretary, whereas this year's plan so vested authority for only those functions now vested in the Federal Security Administrator and retained the independent statutory authority of the Public Health Service and of the Office of Education. Because of these latter health aspects plan No. 27 of 1950 is listed at this point. For a full discussion see Hoover Report No. 15, Social Security, Education, and Indian Affairs, page 108.

House Resolution No. 647, proposing disapproval of plan No. 27, was unfavorably reported on June 23, 1950 (H. Rept. No. 2320), but was adopted by the House on July 10, 1950, thereby rejecting plan No. 27. S. Res. 302, to the same effect, was favorably reported on July 10, 1950 (S. Rept. No. 1943), but in view of House adoption of the comparable disapproving House resolution on the same day, no further action was taken.

Other legislative action

S. 2008 (Thomas of Utah), by request, and H. R. 5182 (Hoffman), United Medical and Hospital Administration Act.—This proposal consolidates certain hospital, medical, and public health functions of the Government in a United Medical Administration, establishes an advisory board, and transfers to the proposed United Medical Administration (1) all functions and facilities of the Public Health Service, (2) all functions of the Surgeon General of the Public Health Service, (3) all functions of the Federal Security Administrator in relation to the foregoing, (4) all hospitals of the Veterans' Administration and functions relating thereto, (5) all general hospitals of the Army, Navy, and all station hospitals of the Air Force, with certain exceptions, (6) four civilian hospitals in the Panama Canal Zone, (7) St. Elizabeths Hospital in the District of Columbia. Establishes a professional career service to be known as the United Health and Medical Services and prescribes qualifications for appointment therein.

S. 2008 was submitted by the counsel for the Hoover Commission and introduced by Senator Thomas of Utah, by request, on June 7, 1949. The Senate Labor and Public Welfare Committee began hearings on April 25, 1950, as did the House Committee on Expenditures in the Executive Departments starting March 22, 1950, on the companion bill, H. R. 5182. No further action has been taken.

Related to this proposal are the health aspects of rejected Reorganization Plans No. 1 of 1949, and No. 27 of 1950 which are briefly discussed above, and more fully discussed under Hoover Report No. 15 on Social Security, Education, and Indian Affairs, page 108. Because of the controversy over creating a separate UMA or other health organization, as against combining it with other functions, the following list of related bills is presented. They cover various forms of proposed organization in this area involving separate welfare, security and health functions or combinations thereof: S. 2060 (McCarthy), H. R. 184 (Harris), H. R. 1402 (Miller), and H. R. 5175 (Hoffman),

none of which made any legislative progress, and H. R. 782 (Dawson), which was reported by the House Committee on Expenditures in the Executive Departments on February 15, 1949 (H. Rept. No. 122) but made no further progress.

S. 1679 (Thomas of Utah, et al.), H. R. 4312 (Biemiller), H. R. 4313 (Dingell), National Health Insurance and Public Health Act.—Related omnibus health bills: S. 5 (Murray et al.), S. 1581 (Taft et al.), S. 1970 (Flanders and Ives), S. 2940 (Hunt), and H. R. 4918 (Herter).

S. 1679 is a comprehensive "omnibus" health bill of 163 pages which was introduced by Senators Thomas of Utah, Murray, Wagner, Pepper, Chavez, Taylor, McGrath, and Humphrey on April 25, 1949, and develops the President's health program. It has broader coverage than the totality of Hoover Commission recommendations. This bill superseded S. 5 which was introduced at the start of the Eighty-first Congress on January 5, 1949, by Senators Murray, Wagner, Pepper, Chavez, Taylor, and McGrath. S. 1679 declared the purposes of Congress to be the relief of personnel shortages in the health professions, the expansion of medical research, the expansion of hospital facilities and of child health and maternal care, and establishment of prepaid health insurance to be paid for by the people in proportion to their income. These broad purposes are developed in detail in seven titles of the bill. It has made no legislative progress in either Senate or House versions following Senate hearings which began on May 4, 1949, and House hearings on May 20, 1949.

The three following related omnibus health bills (S. 1581, S. 1970, and S. 2940) are discussed here because of their broad coverage; other related bills of somewhat less extensive scope are separately presented below.

S. 1581, a shorter omnibus health bill of 62 pages, was introduced by Senators Taft, Smith, and Donnell on April 14, 1949, and referred to the Committee on Labor and Public Welfare. It proposed a National Health Act declaring that the purpose of Congress is to centralize health functions in the Federal Government, to correct inadequacies in medical services in the United States by aid to the States, and to make a study of present training facilities for medical personnel. Some aspects of the bill are directly related to Hoover Commission recommendations such as consolidations of Federal health activities, and a survey of medical school needs.

S. 1970, another extended omnibus bill, was introduced by Senators Flanders and Ives on May 31, 1949, and also referred to the Committee on Labor and Public Welfare. The companion bill, H. R. 4918, was introduced by Representative Herter on the same day. S. 1970 proposed a National Health Act which established voluntary, prepayment health-service plans with subscription charges based on a percentage of subscriber income; authorized grants to aid the construction of medical facilities; authorized a bipartisan commission to formulate a 20-year health plan; and increased the authorization for Federal aid on hospital construction.

S. 2940, omnibus health bill, was subsequently introduced by Senator Hunt on January 30, 1950, and also referred to the Labor and Public Welfare Committee. It proposed a separate Department of Health to take over specified activities of the Federal Security Agency and of the Canal Zone, authorized grants to encourage health personnel to settle in short-handed areas, and to establish farmers' medical co-

operatives; and approved a voluntary insurance program for persons in middle income group. S. 2940 has made no legislative progress.

S. 1456 (Hill et al.), voluntary health insurance.—S. 1456 is related to, though of less extensive scope than, the above omnibus health bills. It was introduced by Senators Hill, O'Conor, Withers, Aiken, and Morse on March 30, 1949, and referred to the Committee on Labor and Public Welfare. S. 1456 included a voluntary prepayment health insurance plan, based on action by individual States, to provide hospital, surgical, obstetrical, and medical services. The bill has made no legislative progress following the Senate hearings which began on May 23, 1949.

The following bills are related and permit income tax deductions of subscription charges to certain health service plans: H. R. 4925 (Herter), H. R. 4926 (Javits), H. R. 4927 (Case of New Jersey), H. R. 4928 (Nixon), H. R. 4929 (Morton), H. R. 4930 (Fulton), and H. R. 4931 (Hale). None of these bills has made any legislative progress.

S. 522 (Hill et al.) and H. R. 5865 (Priest), Local Public Health Units Act.—These related bills develop single health unit phases of the omnibus health bills already covered. S. 522 was introduced by Senators Hill, Chapman, Smith of New Jersey, Humphrey, Saltonstall, Cordon, Douglas, Malone, Kefauver, and Knowland on January 17, 1949. It authorizes Federal aid to States in the development and maintenance of full-time local public-health units. States with approved plans may be given annually amounts based on population and financial need. The Surgeon General must prescribe criteria for grants.

Both bills have made some legislative progress. S. 522 was reported by the Labor and Public Welfare Committee on August 15, 1949 (S. Rept. No. 925), passed the Senate on August 27, 1949, and was referred to the House Interstate and Foreign Commerce Committee. Meanwhile that House committee reported H. R. 5865 on July 3, 1950 (H. Rept. No. 2480), which made no further progress.

S. 904 (Douglas), S. 2352 (Pepper, Murray, and Aiken), H. R. 4725 (Bolling), H. R. 4821 (Javits), H. R. 5393 (Fulton), H. R. 5567 (Battle), H. R. 5835 (Battle), H. R. 6200 (Battle), H. R. 6201 (Battle), and H. R. 6202 (Battle), dealing with child research.—S. 904, introduced by Senator Douglas on February 10, 1949, and referred to the Labor and Public Welfare Committee, is summarized below. It illustrates the variety of bills in this field, none of which has made any legislative progress. Hearings were held, however, starting on May 11, 1949.

S. 904 authorizes the Children's Bureau of the Federal Security Agency to carry out a program of research in child life and development; to disseminate such information; to make grants-in-aid to institutions for research projects; and to establish research fellowships. It creates the National Advisory Council on Child Research to advise with respect to administration of this act.

S. 1453 (Pepper et al.), and H. R. 5940, H. R. 8886, and H. R. 9508 (Biemiller), providing Federal aid for health education.—These similar bills develop the health education phase alone of the omnibus health bills treated above, and are related to the recommendation in Hoover Report No. 16 on Medical Activities that the needs of medical schools be surveyed.

S. 1453 was introduced by Senators Pepper, Hayden, and McFarland on March 29, 1949, and referred to the Labor and Public Welfare

Committee. S. 1453 authorizes Federal aid for medical, dental, nursing, sanitary engineering, and public health education; and authorizes sums for scholarships, and appropriations for construction of facilities.

The committee reported S. 1453 on August 3, 1949 (S. Rept. No. 834), and it passed the Senate on September 23, 1949. H. R. 5940 was introduced by Representative Biemiller on August 19, 1949, and was reported by the Committee on Interstate and Foreign Commerce on October 11, 1949 (H. Rept. No. 1406), but has made no further legislative progress. H. R. 9508, similarly referred, has made no progress.

Administrative Action

The Commission on Organization recommended that a survey be made to determine the needs for emergency aid to medical schools. The Public Health Service is conducting this survey in cooperation with the American Medical Association and the Association of American Medical Colleges. The report of the survey will be completed in the near future.

There has been no action to date on the Commission recommendations that would require administrative action after the establishment of a United Medical Administration, nor on the recommendation that the inconsistency in policy between the Federal hospital construction program and Federal aid to non-Federal hospitals under the Hill-Burton Act be ended.

Summary

The Congress rejected similar Presidential Reorganization Plans No. 1 of 1949 and No. 27 of 1950. This rejection was in accord with Hoover Commission recommendations that a United Medical Administration be created to cover only the broad areas of medical care, public health, and medical research.

A number of omnibus health bills of broad though varying coverage made no legislative progress. Phases thereof in accord with Hoover Commission recommendations were, however, more favorably considered. Thus, the authorization of Federal aid on hospitals was extended 5 years and liberalized considerably (Public Law 380). Likewise, research institutes were authorized to deal with various groups of diseases (Public Law 692). Partial progress was made in other directions when the Senate approved Federal aid for local public-health units (S. 522) though the House did not act on favorable House committee recommendation. The same comparative situation developed on Federal aid for health education.

17. FEDERAL BUSINESS ENTERPRISES

Action Required To Implement Recommendations

The Bureau of the Budget has estimated that a total of 30 steps will be required to effectuate the 23 recommendations of the Hoover Commission in this report. By action categories, the numbered recommendations are as follows: [1]

Substantive legislation

1. To correct the defects in Government charters, the Congress should enact legislation to amend the Government Corporation Control Act of 1945, as follows:

(*a*) That borrowing powers, liability for the corporation's obligations, and budgetary presentation be made uniform for like classes of loans and like securities.

(*b*) That the Government stock in these corporations be held by the President or by the head of the agency as he may direct.

(*c*) That Congress determine what disposition should be made of surpluses of partly owned Government corporations. That Congress determine the policy for distribution of earnings of fully owned and partially owned corporations.

(*d*) That expenditures for capital additions be made only after congressional approval.

(*e*) That all corporations in determining construction costs include a charge for interest on capital expended during the period of construction.

(*f*) That where boards are established, they should be appointed by the President and serve as advisory.

(*g*) Where Government corporations are located within a major Government department, the head of the department, or another person designated by him, should serve as ex officio chairman of the advisory boards.

2. Government business enterprises should be required to surrender to the Treasury all United States securities held, up to the amount of the capital furnished by the Government, and receive non-interest-bearing credit in the Treasury. They should not be allowed to invest their funds in other securities unless authorized by the Congress.

3. Incorporate all straight-line business activities in order to secure greater flexibility in management, accounting, budgeting, and auditing.

4. That business enterprises, which also have other activities not wholly of the business type, such as the Post Office, Reclamation Service, and Maritime Service, be given the form of operation established under the Government Corporation Control Act and make a distinction between capital expenditures and operating costs.[1a]

[1] Recommendation No. 15, relating to inclusion of coverage of administrative expenses in crop insurance premiums, is omitted from the ensuing categories because legislation had already been enacted, prior to submission of the Hoover reports, to effect that end.

[1a] The Bureau of the Budget indicated that substantive legislation would be required to give these agencies the same fiscal flexibility as Government corporations, but that capital expenditures could be separated from operating expenditures by administrative action.

5. That certain agencies [2] conduct their business so as to recover administrative expenses, or set out such items as direct subsidies.

6. Both incorporated and unincorporated business enterprises should report annually to Congress the extent to which earnings failed to cover: (*a*) interest on capital, (*b*) losses on loans or investments, and (*c*) operating expenses.

7. Corporate receipts arising outside of normal activities should be paid into the Treasury and the sums necessary for operation be appropriated by the Congress.

8. The authority of certain agencies [3] to make loans to private persons should be reviewed and restricted so that normal channels of credit will be utilized.

10. That the Congress consider the creation of one corporation to assume responsibility for certain public housing programs.

14. The Federal intermediate credit banks, banks for cooperatives, and the Production Credit Corporation should be consolidated and the merged system should adopt the principle of mutualization.[4]

16. That capital loss readjustments of the Commodity Credit Corporation be financed by congressional appropriation rather than by cancellation of notes.[5]

17. That consideration be given to authorize the Secretary of Agriculture to develop plans as follows:

(*a*) That a modest corporation be set up under the Agricultural Credit Administrator.[6]

(*b*) That the tenant farmer or applicant for a loan obtain a first mortgage from a land bank.

(*c*) That the land bank furnish its appraisal to the Corporation.

(*d*) That the Corporation guarantee second mortgage loans made by the land bank up to 90 percent of the appraised value.

(*e*) That second mortgage loans bear the same rate of interest as the initial land bank loans.

(*f*) That no second mortgage loan exceed $4,000.

(*g*) That the land bank service loans on behalf of the Corporation.

(*i*) That the Corporation assist farmers to obtain production loans.

(*j*) Liquidate the Farmers Home Administration.

(*k*) That the land bank liquidate the outstanding notes of the Farmers Home Administration.

(*l*) The Agricultural Credit Administration should be authorized to approve recommendations for compounding or settling outstanding loans.

18. That Congress review the authority of the Reconstruction Finance Corporation.

19. That a system of national mortgage discount banks be established to provide real estate mortgage discount facilities for all private lending agencies.

20. Liquidate the Inland Waterways Corporation.

22. Incorporate the Alaska Railroad.

23. Incorporate the Washington National Airport.

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[2] Federal Housing Administration, components of the Public Housing Administration, Federal Crop Insurance Corporation, Farmers Home Administration, and the Rural Electrification Administration.

[3] Farmers Home Administration, Federal Reserve banks, and Reconstruction Finance Corporation.

[4] The Bureau of the Budget indicated that the consolidation could be accomplished by reorganization plan, and the principle of mutualization could be effected by substantive legislation.

[5] This could also be effected by appropriation legislation.

[6] This could also be established by administrative action.

Reorganization plan

9. All housing activities should be placed in one agency under a single administrator.

11. The Federal National Mortgage Association should be placed under the Administrator of Housing and Home Finance Agency.

12. The Office of the Housing Expediter should be placed under the Administrator of the Housing and Home Finance Agency.

13. The National Capital Housing Authority should be placed directly under the Commissioners of the District of Columbia.

14. The Federal intermediate credit banks, banks for cooperatives, and the Production Credit Corporation should be consolidated. The merged system should adopt the principle of mutualization.

Administrative action

4. Straight-line business activities such as the post office, reclamation service, and maritime service should be given the same flexibility in business practice as Government corporations, and maintain their accounts so as to distinguish between operating and capital expenditures.

17 (h). That the Agriculture Department furnish advice to borrowers through its established county organizations.

21. Liquidate the Puerto Rico Reconstruction Administration.

Implementation of these recommendations has been accomplished, or has been proposed, as follows:

Legislative Action

The Hoover Commission's recommendations on Federal Business Enterprises cover such broad subjects as Government corporations, creation, reorganization and consolidation of agencies and functions, changes in financial structure of agencies, and the formulation of and change in policies of some of the most important activities of the Federal Government. Because of the broad scope of the recommendations, activation thereof has, generally, occurred through the medium of bills introduced for other purposes but which, as a byproduct of major intent, have bearing on some of the objectives underlying the Hoover Commission's recommendations. A number of such bills are included in the ensuing text. (See also Public Law 712, covered in the report herein on the Post Office.)

Public laws

Public Law 475, Housing Act of 1950.—This act, broad in scope as related to the national housing program, resulted from S. 2246, introduced by Senator Sparkman on July 12, 1949. Specifically, as here concerned, title II of Public Law 475 provides for the disposition of certain war and veterans' housing projects to be accomplished under the supervision of the Housing and Home Finance Agency. Recommendation No. 10 of the Hoover Commission Report on Federal Business Enterprises is that the Congress consider the creation of a corporation to assume responsibility for a group of public housing activities, including those affected by title II of this particular law. Thus, while this act is not in direct conformance with recommendation No. 10, it does provide positive activation thereof.

S. 2246 was reported by the Senate Banking and Currency Committee on August 11, 1949 (S. Repts. Nos. 892 and 1286), and passed

the Senate on March 15, 1950. Having passed the House in amended form on March 22, 1950, a conference report (H. Rept. No. 1893) was subsequently filed on April 5, 1950, to which the House agreed on April 6, 1950, and the Senate on April 10, 1950. The bill was approved as Public Law 475 on April 20, 1950.

A companion bill (H. R. 7402) was introduced by Representative Spence on February 22, 1950. Reported by the House Banking and Currency Committee on February 23, 1950 (H. Rept. No. 1686), that bill was tabled on March 22, 1950, and S. 2246 substituted.

Public Law 841, maintenance and operation of Panama Canal.—This law, arising from H. R. 8677, introduced by Representative Hart on May 31, 1950, provides for the maintenance and operation of the Panama Canal by the present corporate adjunct of the Panama Canal as renamed, "The Panama Canal Corporation." It is designed to reconstitute the agency charged with civil government of the Canal Zone, and to accomplish certain other purposes. The bill would separate the transit and business functions of the Canal Zone from the civil government functions; would require that tolls for commercial ships be related to transit costs, including interest on Government investment in the Canal, and a fair share of the net cost of health, sanitation, and civil government; would eliminate free transit of Government ships; and would provide that the net appropriated cost of operation of the Canal Zone government be reimbursed to the Treasury by the Corporation and that such reimbursement be on a proportionate basis. The bill further provides for returning to the Treasury interest at the average Government rate on the Government's net investment in the company and would provide for commercial type audits, the maintenance of business-type accounts, and other financial procedures comparable to the methods followed by private enterprises.

The provisions of this bill are in accord with the objectives of recommendation No. 3 of the Hoover Commission on Federal Business Enterprises in that it will promote greater flexibility in management and simpler accounting, budgeting and auditing methods. The proposal also contains a provision for distribution of surplus as contemplated by recommendation No. 1 (c) of the Hoover Commission.

H. R. 8677 was reported by the House Merchant Marine and Fisheries Committee on August 16, 1950 (H. Rept. No. 2935) and passed the House on August 24, 1950. Reported by the Senate Armed Services Committee on September 8, 1950 (S. Rept. No. 2531), the bill passed the Senate, amended, on September 13, 1950, the House agreeing thereto on September 15, 1950, and was approved September 26, 1950, as Public Law 841.

Reorganization plans

Reorganization Plan No. 22 of 1950, providing for the transfer of the Federal National Mortgage Association from the Reconstruction Finance Corporation to the Housing and Home Finance Agency.—This plan submitted to the Congress by the President on May 9, 1950, transferred the Federal National Mortgage Association from the Reconstruction Finance Corporation, by which the Association had been operated as a subsidiary since its chartering in 1938, to the Housing and Home Finance Agency. The Housing and Home Finance Administrator is authorized to provide for the performance of any of the functions

involved in the transfer by any other officer, employee, or agency of the Housing and Home Finance Agency as he may determine. The plan made provision for transfer of such technical matters as statutory eligibility to serve as members of the Board of Directors of the Corporation, the financial obligations and financing processes which exist in the parent-subsidiary relationship between the Reconstruction Finance Corporation and the Federal National Mortgage Association, and the authority formerly lodged in the Federal Housing Commissioner to terminate the life of the Association. Similarly, the plan provided for transfer of related personnel, records, property, and funds.

The Federal National Mortgage Association was charted by the Federal Housing Administrator pursuant to authority in title III of the National Housing Act, approved June 27, 1934 (12 U. S. C. 1701 et seq.), for the purpose of providing a secondary market for the sale of home mortgages insured or guaranteed by other Government agencies. The plan is in direct conformance with recommendation No. 11 of the Hoover Commission. Senate Resolution 299, introduced on June 15, 1950, by Senator George, for himself and Senator Cain, expressing disapproval of the plan was reported without recommendation by the Committee on Expenditures in the Executive Departments on July 5, 1950 (S. Rept. No. 1936). The resolution failing of adoption on July 6, 1950, the plan having an extended effective date, became law on September 7, 1950.

Reorganization Plan No. 23 of 1950, providing for transfer of the financing of factory-built homes from the Reconstruction Finance Corporation to the Housing and Home Finance Agency.—This plan submitted to the Congress by the President on May 9, 1950, transferred from the Reconstruction Finance Corporation to the Housing and Home Finance Administrator all functions of RFC with respect to the financing of the prefabricated housing industry, including the financing of large-scale modernized site construction. The Housing and Home Finance Administrator is authorized to provide for the performance of these functions by any other officer, employee, or agency of the Housing and Home Finance Agency as he may determine.

The transfer included certain functions related to the financing of the program, including assumption by the Administrator of related obligations of RFC held by the Secretary of the Treasury, together with the obligation of paying interest thereon, and the issuance of new obligations to the Secretary of the Treasury to finance future operations of the program. Similarly transferred were incidental records, property, personnel, and funds.

The plan is in full accord with recommendation No. 9 of the Hoover Commission Report on Federal Business Enterprises and with recommendation No. 1 of the Commission's Report on General Management in the Executive Branch.

No resolution of disapproval was introduced in either the Senate or the House of Representatives, the plan was reported favorably by the Senate Committee on Expenditures in the Executive Departments on June 26, 1950 (S. Rept. No. 1870), and became effective on September 7, 1950, having had an extended effective date of 60 days.

Reorganization Plan No. 24 of 1950, to transfer the Reconstruction Finance Corporation to the Department of Commerce.—The purpose of this plan, submitted to the Congress by the President on May 9, 1950, was to place the Reconstruction Finance Corporation, as an integral

unit, within the framework of the Department of Commerce. The Corporation would have continued to be administered by its own Board of Directors and officers but would have been subject to the "supervision, coordination, and policy guidance" of the Secretary of Commerce.

The plan was in complete digression from the recommendation of the Hoover Commission that the Reconstruction Finance Corporation be placed in the Department of the Treasury. Recommendation No. 3 appearing in the Hoover Commission report on the Treasury Department (and referred to at recommendation No. 18 of the Hoover Commission Report on Federal Business Enterprises) is as follows:

> We recommend, therefore, that the supervision of the operations of the Reconstruction Finance Corporation, the Federal Deposit Insurance Corporation, and the Export-Import Bank be vested in the Secretary of the Treasury.

However, dissenting views were included in the Hoover Commission report on the Treasury Department by Commissioners Aiken, Pollock, and Rowe. Those three Commissioners agreed with the majority that the Reconstruction Finance Corporation should be placed within one of the departments of the executive branch, but took the position that it should be located within the Commerce Department, as this plan would have done. Their dissent from the majority opinion arose from a different interpretation of "major purpose." The minority view was that the primary function of RFC is the "promotion of foreign and domestic commerce and trade," a prime function of the Department of Commerce, rather than a strictly financial or "money" undertaking as an end in itself, as was the apparent basis for the majority recommendation. Therefore, the minority viewed the merging of RFC into the Department of Commerce as a natural and logical move, which accords with the view of the President as communicated to the Congress in his message accompanying the plan.

Senate Resolution No. 290, expressing disapproval of the plan, was introduced by Senator Fulbright on June 1, 1950. Reported without recommendation by the Committee on Expenditures in the Executive Departments on June 26, 1950 (S. Rept. No. 1868), the resolution was adopted in the Senate on July 6, 1950, thus defeating the plan.

Other legislative action

Senate Resolution 219, providing for study of Reconstruction Finance Corporation.—This resolution provides for a thorough study of the operations of the Reconstruction Finance Corporation and its subsidiaries, with special attention to be given to the recommendations of the Hoover Commission. Introduced on January 24, 1950, by Senator Fulbright, it was referred to the Senate Committee on Banking and Currency and reported therefrom on January 26, 1950, no written report. Referred to the Committee on Rules and Administration and reported therefrom also on January 26, 1950 (S. Rept. No. 1243), the resolution was adopted in the Senate on February 8, 1950. As originally adopted, Senate Resolution 219 required completion of the study not later than June 1, 1950. It has been necessary to extend that terminal date on two occasions, the first extension to July 15, 1950, by Senate Resolution 279, and the second extension, under which the study is now proceeding, to January 31, 1951, by Senate Resolution 307.

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This action of the Congress is in complete preparatory fulfillment of recommendations Nos. 8 and 18 of the Hoover Commission Report on Federal Business Enterprises that, generally, the Congress review the power of the Reconstruction Finance Corporation to make direct loans and that in nonemergency periods restrictions be placed on such loans so as to insure maximum utilization of normal channels of credit.

S. 211, inland waterways amendments of 1949.—This bill was introduced on January 5, 1949, by Senator Wherry and others for the purpose of increasing the capital stock of the Inland Waterways Corporation from $15,000,000 to $33,000,000. Having been referred to the Senate Committee on Interstate and Foreign Commerce, the bill was reported therefrom on October 15, 1949, amended to provide for eventual liquidation of the Corporation, thus conforming to recommendation No. 20 of the Hoover Commission. S. 211 has remained without further legislative action.

Administrative Action

The Interior Department's plan for the liquidation of the Puerto Rico Reconstruction Administration has been adopted, as urged by the Hoover Commission in recommendation No. 21.

The Commission also recommended (recommendation No. 4) that Government business enterprises set up their accounts so as to distinguish between capital and operating expenditures. This recommendation is being carried out through the joint accounting program of the General Accounting Office, the Treasury Department, and the Bureau of the Budget.

Summary

The broad purpose underlying the recommendations and accompanying textual discussions in the Hoover Commission Report on Federal Business Enterprises is the fundamental improvement of business methods of Government activities, whether incorporated or unincorporated. Legislation of progressive nature almost invariably includes provision for business methods for enterprises or undertakings so created, and thus it follows that the recommendations of the Hoover Commission in this area have been given positive recognition in a continuing manner throughout both sessions of the Eighty-first Congress.

To illustrate, the Budget and Accounting Procedures Act of 1950 (Public Law 784, approved September 12, 1950) restates comprehensively and in detail the authority of the Comptroller General in the matter of accounting and auditing. This authority, to be exercised in full cooperation with the Bureau of the Budget, with the Department of the Treasury, and with the individual agencies of the Government, represents admittedly the most far-reaching and constructive step taken in that field since the passage of the Budget and Accounting Act of 1921, and it places readily at hand tremendous latitude in the manner of establishing accounting and auditing systems and of their fruition. This same law brings about equally constructive improvements in the field of the Federal budget, permitting the so-called performance method of stating past budgetary performance and future budgetary needs.

The Federal Property and Administrative Services Act of 1949, Public Law 152, approved June 30, 1949, as amended by Public Law 754, approved September 5, 1950, is replete with clauses enabling real progress in property management, property accounting, supply purchases, and related matters.

Consequently, in order to gain proper appreciation of the progress which has been made by the Congress and by the administration in implementing the Hoover Commission recommendations on Federal Business Enterprises, it is necessary to study not only this segment of this report, but to scrutinize as well practically all legislation, reorganization plans, and administrative action reported elsewhere herein. This is especially true of the sections devoted to general management of the executive branch, to the Office of General Services, to the Post Office, and to budgeting and accounting. In each of those sections will be found textual amplification of legislation referred to only briefly in this part. The record established by the Government in achieving the goals outlined by the Hoover Commission in this general area is heartening, indeed.

18. PART 1: OVERSEAS ADMINISTRATION

Action Required To Implement Recommendations

The Hoover Commission made but one recommendation in this field, that the Congress direct that a comprehensive study be made of the entire problem of the administration of overseas activities, thus requiring substantive legislation.

Implementation of this recommendation has been proposed through the following action:

Legislative Action

Public laws

(None.)

Reorganization plans

(None.)

Other legislative action

S. 2072 (S. 2061, H. R. 5172, H. R. 6170, H. R. 7554), to create a Commission on Overseas Administration.—The Senate Committee on Expenditures in the Executive Departments unanimously reported a bill in conformity with a draft submitted by the Commission, to accord with its recommendation in this report. The bill provides for the creation of a Commission composed of four Members of the Senate, four Members of the House of Representatives, and four representatives of the executive branch. The Commission would be authorized to make a study of the administration of all overseas activities of the Federal Government, with a view to recommending to the Congress necessary legislative action required for coordinating and integrating such activities. This is designed to correct serious conflicts now existing in this field, and to eliminate overlapping and duplicating agencies, which the Commission indicated as one of the most important matters requiring legislative action. An amendment provided that any overseas hearings to be conducted by members of the Commission must first be authorized by a majority of the Commission.

S. 2072 was reported to the Senate on August 10, 1949 (S. Rept. No. 889), passed the Senate by unanimous consent August 27, 1949, and was referred to the House Committee on Expenditures in the Executive Departments, where no action has been taken.

Representative Mansfield introduced an identical bill, H. R. 6170, referred to the House Committee on Foreign Affairs, on which no action has been taken. Similarly, no action has been taken by the respective Committees on Expenditures in the Executive Departments on identical bills S. 2061, H. R. 5172, and H. R. 7554.

Administrative Action

The sole recommendation of the Hoover Commission with respect to overseas administration is for a comprehensive study thereof to be instigated by the Congress. The Administration has now entered into

a contract with the Brookings Institution, Washington, D. C., for a broad survey designed to include the matter of the administration of overseas activities.

It is understood that the Brookings survey will explore such subjects as the background of the formulation of foreign policy and the conduct of foreign affairs and the coordination of the activities of agencies operating overseas. This last, particularly, would appear to be especially consistent with the desired goal emphasized by the Hoover Commission.

Summary

Despite no final action by the Congress on any of the several measures designed to create a Commission to study the conduct of the administration of United States overseas activities, the negotiation of the contract with the Brookings Institution represents a soundly progressive step. That contract, identified as the project on administration of foreign affairs and overseas operations, may be expected to provide the foundation for future corrective measures should such be indicated.

18. PART 2: FEDERAL-STATE RELATIONS

Action Required To Implement Recommendations

The Bureau of the Budget has estimated that the five recommendations in this report of the Hoover Commission may be accomplished through six steps. By category of execution, the recommendations are as follows:

Substantive legislation.—Recommendations No. 1, that Government functions and activities be appraised to determine the most advantageous operational Government level of each and those which require joint policy making, financing, and administration; No. 2, for a general revision of National, State, and local tax systems, and that there be left to localities and States adequate revenue resources; No. 3, for the budgeting and administration of grants-in-aid to State governments in the same manner as other Federal and State funds; and No. 5, for the creation of a continuing agency to study Federal-State relations.

Administrative action.—Recommendation No. 4, for the clarification and systemization of plans and programs for grants-in-aid.[1]

Implementation of these recommendations has been proposed through the following action:

Legislative Action

Public laws

(None.)

Reorganization plans

(None.)

Other legislative action

S. 3147, H. R. 8843, to establish National Commission on Intergovernmental Relations.—S. 3147, introduced on February 28, 1950, by Senator Humphrey and others, would create a temporary bipartisan National Commission on Intergovernmental Relations, the membership to be named by the President, for the purpose of providing the Congress with specific recommendations based upon a study of past and present relations and allocations of governmental functions and powers among the National, State, and local governments of the United States and of the possibilities and mechanism for achieving on a continuous basis, consistency in the fiscal policies of the several levels of government. The bill would require that special attention be given to intergovernmental tax immunities in terms of the problems they create for governments and taxpayers and means for resolving these problems; to revenue sources and means for reducing or eliminating intergovernmental tax competition; and to grants-in-aid, tax sharing, and other similar measures for adjusting financial resources to the needs of State and local governments with a view to

[1] Also substantive legislation.

proposing guides to the use of such devices and improvements in their operation.

S. 3147 supersedes S. 1946, the principal differences being that S. 3147 makes provision for a temporary commission rather than a permanent one as proposed in S. 1946; that S. 3147 would reduce the size of the Commission from 15 to 7; and that S. 3147, in order to broaden the membership and to avoid intergovernmental controversy, would eliminate the panel form of selection of the Commission's members. S. 3147 is in direct implementation of recommendations Nos. 1 and 5 of the Hoover Commission. It was reported in the Senate on June 22, 1950 (S. Rept. No. 1856).

As stated, S. 3147 supersedes S. 1946 which itself incorporated provisions in S. 767, S. 810, H. R. 2389, H. R. 3184, H. R. 3944, H. R. 4507, and Senate Joint Resolution 41. The essential differences between S. 1946 and those bills, provisions of which were incorporated in S. 1946, are establishment of the National Commission on a permanent rather than a temporary basis; establishment of the Commission as an expediting group rather than as a study group; and a slight difference in composition of the Commission.

H. R. 8843, introduced in the House on June 15, 1950, and identical with S. 3147, was referred to the Committee on Expenditures in the Executive Departments where no action has been taken.

H. R. 7904, H. R. 8714, relating to studies of governmental functions and sources of revenue.—These identical bills, each identified as the Commission on Reallocation of Federal, State, and Local Functions and Sources of Revenue Act, would provide for a study by a temporary group of the advisability of redistributing governmental functions and sources of revenue, and thus implement recommendations Nos. 1 and 5 of the Hoover Commission. Both bills referred to the Committee on Expenditures in the Executive Departments where no action has been taken.

Administrative Action

The Hoover Commission recommended that plans and programs for grants-in-aid be clarified and systematized. The Bureau of the Budget has been conducting a study that has given particular attention to the formulation of standards and guides with respect to the objectives and uses of the grants-in-aid device. Although the study has not been completed, the tentative findings have been utilized in staff consideration of particular legislative proposals and have been incorporated in Presidential recommendations.

Summary

Analysis of the foregoing sections of this report discloses that the Congress, through S. 3147, H. R. 7904 and related measures, as listed, has taken constructive action especially toward implementation of recommendation No. 1, for an appraisal of governmental functions and activities, and recommendation No. 5, for the establishment of an agency to undertake study of, and provide information and guidance in intergovernmental relations. Recommendation No. 4, for the clarification and systematization of grants-in-aid plans and programs, shown as being susceptible of effectuation through administrative

action, is now the object of a study being conducted by the Bureau of the Budget, the goal of which is the formulation of standards and guides with respect to the objectives and uses of this particular financing device.

As the two remaining recommendations, Nos. 2 and 3, patently deal with matters requiring further study, the record of both the Congress and the Administration with respect to this report of the Hoover Commission is good.

18. PART 3: FEDERAL RESEARCH

Action Required To Implement Recommendations

The two-part recommendation of the Hoover Commission in this report has been analyzed by the Bureau of the Budget as being susceptible of activation through the following two steps:

Substantive legislation.—Recommendation No. 1 (a), that the President be empowered to coordinate research and to strengthen interdepartmental committee organization for that purpose.

Reorganization plan.—Recommendation No. 1 (b), for the establishment of a National Science Foundation.

Implementation of the foregoing recommendations has been accomplished, or has been proposed, through the following action:

Legislative Action

Public laws

Public Law 507, National Science Foundation Act of 1949.—Establishes as an independent Federal agency the National Science Foundation for the purpose of developing and encouraging national policy in research and scientific education through various methods as specified therein. This act is in direct implementation of the Hoover Commission's recommendation and arose from S. 247, introduced on January 6, 1949, by Senator Thomas, of Utah, and others. The bill was reported in the Senate on March 3, 1949, by the Committee on Labor and Public Welfare (S. Rept. No. 90). Passed the Senate March 18, 1949, and referred to the House Interstate and Foreign Commerce Committee on March 22, 1949. That committee was discharged and the bill, amended, passed the House March 1, 1950. Conference Report No. 1958 filed April 26, 1950, to which the House agreed on April 27, 1950, and the Senate on April 28, 1950. Approved as Public Law 507 on May 10, 1950.

Public Law 672, directing establishment in NACA of expanded research facilities.—This law directs the National Advisory Committee for Aeronautics to equip and operate research stations and to expand existing research facilities. The National Military Establishment is authorized to make nonreimbursable contributions for the purpose. The act is in harmony with the recommendation and general position of the Hoover Commission and arose from H. R. 5074, introduced on June 18, 1949, by Representative Vinson. The bill was reported by the House Armed Services Committee on February 22, 1950 (H. Rept. No. 1685). Passed House May 16, 1950, and reported in Senate by the Armed Services Committee on July 6, 1950 (S. Rept. No. 1939). Passed Senate in amended form on July 26, 1950. House agreed to Senate amendments on August 1, 1950, and the bill was approved as Public Law 672, on August 8, 1950.

Public Law 776, dissemination of technological, scientific, and engineering information.—This law establishes in the Department of

Commerce a clearinghouse for the collection, dissemination, and exchange of technological, scientific, and engineering information, useful to business and industry. Information of military value is to be referred to the armed services. The measure is in general accord with the recommendation of the Hoover Commission that authority be granted to the President to coordinate research and to strengthen interdepartmental research committees. The act arose from S. 868, introduced on February 8, 1949, by Senator Johnson of Colorado. Reported in the Senate by the Interstate and Foreign Commerce Committee on July 14, 1949 (S. Rept. No. 675). Passed Senate August 9, 1949. Referred to House Interstate and Foreign Commerce Committee on August 10, 1949, and reported on June 28, 1950 (H. Rept. No. 2356). Passed House, amended, August 28, 1950. Senate agreed to House amendments on August 31, 1950, and the bill was approved on September 9, 1950, as Public Law 776. An identical bill, H. R. 1711, introduced on January 24, 1949, by Representative Crosser, was referred to the House Committee on Interstate and Foreign Commerce where no action has been taken.

Reorganization plans

(None.)

Other legislative action

S. 3521 (H. R. 8532), Promotion of research and development in military departments.—These bills, which are in accord with the recommendation and general position of the Hoover Commission in this field, authorize the Secretaries of the several military departments to establish advisory committees and appoint advisory personnel in the promotion of research and development activities. Both bills referred to respective Armed Services Committees where no action has been taken.

Administrative Action

The Bureau of the Budget has reported no administrative action in relation to this Hoover Commission report.

Summary

As will be seen from a scrutiny of the foregoing, the single two-part recommendation of the Hoover Commission in the field of Federal research has been well implemented by the Congress. Public Law 776 of September 9, 1950, is particularly closely related to the first part of the recommendation having reference to the coordination of research. Public Law 507 of May 10, 1950, is in direct conformance with that part of the recommendation relating to the establishment of the National Science Foundation.

As of the date of this report, congressional action was incomplete on the companion bills, S. 3521 and H. R. 8532, to authorize promotion of research and development in military departments. However, the subject of Federal research is one which has had, and may be expected to continue to have, the close attention of the Congress and additional legislation may be expected to be forthcoming.

CONCLUDING REPORT

In this, the nineteenth and final report of the Hoover Commission, the members attempted to recapitulate their common thinking on the general problems of the executive branch of the Government as related to reorganizations in the interest of efficiency, economy, and improved administrative management. This final report does not constitute a summary of the 18 preceding substantive reports, but does review briefly the basic goals of all recommendations made in each particular sphere of governmental activities.

The report includes only four organizational recommendations not theretofore made elsewhere, as follows: (1) That the Displaced Persons Commission and the War Claims Commission report directly to the Secretary of State; (2) that the Indian Claims Commission be attached to the proposed Indian Affairs Service, which itself would be in a proposed new Department of Social Security and Education, there to function as an appeal board with independent powers of review on Indian claims; (3) that all interagency committees be assigned permanently to regular departments or agencies of the executive branch for better reporting, housekeeping, and coordination; and (4) that the Motor Carrier Claims Commission be abolished and its functions absorbed by the Court of Claims.

So far as this committee has been able to determine, no action of any nature has been taken either by the Congress or by the administration with respect to Recommendations Nos. 1, 2, and 4, above. Each of the four Commissions referred to now functions as an independent unit within the executive branch of the Government, and the action called for in Recommendations Nos. 1 and 2 could be taken through the medium of reorganization plan. It is understood that, with respect to such relatively minor recommendations, the Bureau of the Budget is giving consideration to the advisability of the preparation and submission to the Congress of one reorganization plan to accomplish a group of organizational moves.

Recommendation No. 4, above, referring to the Motor Carrier Claims Commission, involves also the Court of Claims, a part of the judiciary, and thus the abolition of the Commission and the transfer of its functions to the Court of Claims appears to be susceptible of accomplishment only through legislative action, which has not yet been taken.

Recommendation No. 3, above, relating to interagency committees, is believed to require several types of action for its fulfillment, depending upon the organic authority of the particular committees involved. That is to say, the permanent assignment to a regular department of an interagency committee created and placed by law should be accomplished through legislative act, whereas a similar assignment of a committee created by executive or administrative order could be accomplished through like action. In evaluating this particular recommendation, which is said by the Hoover Commission to be for

the purpose of better reporting, housekeeping, and coordination, it is important to recognize that interagency committees generally function in the manner apparently envisioned by the Hoover Commission in that their housekeeping functions and their reporting functions are now organized and conducted through the established facilities of one or more of the departments or agencies involved.

In this final report, the Hoover Commission directed attention to the limitation of time which required that its efforts be devoted to selected Federal operations. Therefore, the Commission advises that it chose for special attention the largest spending activities of the Government and, necessarily, certain Federal enterprises were not included in the survey. Rather than this exclusion implying a lack of need for study, the Commission has taken the view that its findings elsewhere emphasize the need for continuing study and suggests that the logical method of so doing would be to assign the task jointly to the Bureau of the Budget and to the agencies to be surveyed.

REPORTS TO THE CONGRESS BY THE COMMISSION ON ORGANIZATION OF THE EXECUTIVE BRANCH OF THE GOVERNMENT

Commission reports, number and title [1]	Supporting documents published as appendixes	Supporting documents not published
1. General Management of the Executive Branch. (Filed with Congress Feb. 7, 1949.) (H. Doc. No. 55.)	Appendix E, Task Force Report on Departmental Management, which includes pts. I and II, Study on Departmental Management, by Hensel and Millett.	(Departmental Management:) Pt. III, Study on Departmental Management by Agency, by John D. Millett. Appendixes to Departmental Management, by Saxon, Dunham, and Zimmerman. (Federal Field Services:) Vol. I, Survey of Federal Field Services; vol. II, Supporting Data by Geographic Entities, by Klein and Saks. (Government Information Services:) Report on Government Information Services, by Stanley and Sullivan.
2. Personnel Management (Filed with Congress Feb. 10, 1949.) (H. Doc. No. 63.)	Appendix A, Task Force Report on Federal Personnel, which includes Programs for Strengthening Federal Personnel Management, by Personnel Committee, John A. Stevenson, chairman.	Appendixes to Personnel Committee Report.
3. Office of General Services (supply activities). (Filed with Congress Feb. 14, 1949.) (H. Doc. No. 73.)	Appendix B, Task Force Report on the Federal Supply System, which includes Summary Report on Federal Supply System, by Supply Project Committee, Russell Forbes, chairman.	(Federal Supply:) Detailed Report on Federal Supply System, by Supply Project Committee, Russell Forbes, chairman.
	Appendix C, Task Force Report on Records Management, which includes Records Management in U. S. Government, by National Records Management Council, E. J. Leahy, Director, et al.	None.
4. The Post Office (Filed with Congress Feb. 17, 1949.) (H. Doc. No. 76.)	Appendix I, Task Force Report on The Post Office, which includes Report on the Post Office Department, by Robert Heller & Associates, Inc.	None.
5. Foreign Affairs (Filed with Congress Feb. 21, 1949.) (H. Doc. No. 79.)	Appendix H, Task Force Report on Foreign Affairs, which includes The Organization of the Government for the Conduct of Foreign Affairs, by Harvey H. Bundy and James G. Rogers.	Staff Study of Role of President in Foreign Affairs, appendix IV–A, by L. W. Koenig. Staff Study of Interdepartmental Aspects of Foreign Affairs, appendix V–A, B, C, D, E, F, by Task Force staff. Miscellaneous Studies Pertaining to Department of State, appendix VI–A, B, C, D, by Task Force staff. Miscellaneous Studies Pertaining to Foreign Service, appendix VII–A, B, C, by Task Force staff. Staff Study on Executive-Legislative Relations in the Conduct of Foreign Affairs, appendix VIII–A, by Cheever and Haviland. (Note: The above appendixes are numbered so as to indicate their relationship with certain chapters of pt. II of the printed Task Force Report (appendix H). For example, appendix IV–A relates to ch. IV, pt. II. There are no appendixes I, II, III.)
6. Department of Agriculture (Filed with Congress Feb. 22, 1949.) (H. Doc. No. 80.)	Appendix M, Task Force Report on Agriculture Activities, which includes Tentative Report on Agricultural Activities, by Agriculture Committee, H. P. Rusk, chairman.	None.

See footnotes at end of table, p. 138.

Reports to the Congress by the Commission on Organization of the Executive Branch of the Government—Continued

Commission reports, number and title [1]	Supporting documents published as appendixes	Supporting documents not published
7. Budgeting and Accounting (Filed with Congress Feb. 25, 1949.) (H. Doc. No. 84.)	Appendix F, Task Force Report on Fiscal, Budgeting and Accounting Activities, which includes: (*a*) Summary Report, by John W. Hanes. (*b*) Reorganization of the Treasury Department, by A. E. Buck et al. (*c*) Federal Budgeting, by A. E. Buck. (*d*) Accounting Needs of the Federal Government, by T. C. Andrews et al. Appendix D, Task Force Report on Statistical Agencies, which includes Statistical Agencies of the Federal Government, by National Bureau of Economic Research.	(Fiscal budget, accounting:) Appendix to Report on Accounting Needs of the Federal Government, by T. C. Andrews et al. Division of Statistical Standards, Bureau of Budget, by Peter Langhoff. Division of Estimates of Bureau of Budget, by Rowland Egger. Division of Administrative Management of Bureau of Budget, by John D. Millett. (Statistical Agencies:) Statistical Agencies of the Federal Government, pt. II, by National Bureau of Economic Research, Inc.
8. The National Security Organization (Filed with Congress Feb. 28, 1949.) (H. Doc. No. 86.)	Appendix G, Task Force Report on National Security Organization, which includes vol. I, Report of Committee on National Security, Ferdinand Eberstadt, chairman.	Vols. II, III, IV, Report of the Committee on National Security.
9. Veterans' Affairs (Filed with Congress Mar. 2, 1949.) (H. Doc. No. 92.)	None	Preliminary report by Trundle Engineering Co., Cleveland, Ohio.[2] Report by Committee on Veterans' Affairs, Franklin D'Olier, chairman.[2]
10. Department of Commerce [3] (Filed with Congress Mar. 7, 1949.) (H. Doc. No. 100.)	Appendix N, Task Force Report on Regulatory Commissions, which includes Final Report of Committee on Independent Regulatory Commissions, by Robert R. Bowie, Owen D. Young, et al.	(Regulatory Commissions:) Staff Reports by Committee on: Civil Aeronautics Board. Federal Communications Commission. Federal Power Commission. Federal Reserve System. Federal Trade Commission. Interstate Commerce Commission. National Labor Relations Board. Securities and Exchange Commission. U. S. Maritime Commission. (Transportation:) Vol. I, Revision of National Transportation Policy and Administrative Organization, by Brookings Institution. Vol. II, Provision of Facilities and Regulation of Transport Enterprises, by Brookings Institution.
11. Treasury Department (Filed with Congress Mar. 10, 1949.) (H. Doc. No. 115.)	Appendix F, Task Force Report on Fiscal, Budgeting, and Accounting Activities, which was filed with Congress with Budgeting and Accounting Report, Feb. 25, 1949.	None.
12. Regulatory Commissions (Filed with Congress Mar. 12, 1949.) (H. Doc. No. 116.)	Appendix N, Task Force Report on Regulatory Commissions, which was filed with Congress with Department of Commerce report, Mar. 7, 1949.	Staff reports of Committee on Independent Regulatory Commissions which were filed with Congress with Department of Commerce report, Mar. 7, 1949.
13. Department of Labor (Filed with Congress Mar. 14, 1949.) (H. Doc. No. 119.)	None	Memo from George W. Taylor to Commission.

14. Interior Department[4] (Filed with Congress Mar. 17, 1949.) (H. Doc. No. 122.)	Appendix L, Task Force Report on Natural Resources, which includes: (*a*) Pt. I, Report on Organization and Policy, by Natural Resources Committee, Leslie A. Miller, chairman. (*b*) Pt. III, appendixes B through R to Natural Resources Committee report.	(Natural Resources): Pt. II, appendix A, Natural Resources Activities, by J. R. Mahoney.
	Appendix Q, Task Force Report on Public Works, which includes: (*a*) Report of Public Works Task Force, Robert Moses, chairman. (*b*) Memo relating to Natural Resources Task Force Report, by Robert Moses et al.	None.
15. Social Security, Education, and Indian Affairs. (Filed with Congress Mar. 21, 1949.) (H. Doc. No. 129.)	Appendix P, Task Force Report on Public Welfare, which includes: (*a*) Pt. I, Departmentalization.[5] (*b*) Pt. II, Functions and Activities in the Field of Health. (*c*) Pt. III, Federal Policy and Organization for Education. (*d*) Pt. IV, Federal Employment Activities and Organization. (*e*) Pt. V, Relief and Social Security. (*f*) Pt. VI, Federal Recreational Activities.	Pt. VII, Unemployment Compensation, by Brookings Institution. (Indian Affairs): Report of Committee on Indian Affairs.
16. Medical Activities (Filed with Congress Mar. 21, 1949.) (H. Doc. No. 128.)	Appendix O, Task Force Report on Federal Medical Services, which includes Report on Federal Medical Services, by Medical Services Committee, Tracy S. Voorhees, chairman, and appendix A. (Pt. II, appendix P, Functions and Activities in the Field of Health, filed with Congress with report No. 15, Social Security, Education and Indian Affairs, Mar. 18, 1949.)	Appendix B, Federal Health Activities and Programs, by Committee on Federal Medical Services. Appendix C, Area Surveys, by Subcommittee on Hospitalization. Appendix D, Report of Subcommittee on Tuberculosis. Appendix E, Report of Subcommittee on Psychiatry and Neurology. Appendix F, Report of Subcommittee on Armed Forces Hospitalization. Appendix G, Report of Subcommittee on Medical Manpower. Appendix H, Medical Education and Training Programs in Federal Agencies, by Subcommittee on Hospitalization. Appendix I, Report of Subcommittee on Preventive Medicine and Public Health. Appendix J, Report of Subcommittee on Medical Research. Appendix K, Report of Subcommittee on Medical Supply. Appendix L, Actuarial Projections, by Federal Medical Services Committee.
17. Business Enterprises (Filed with Congress Apr. 1, 1949.) (H. Doc. No. 152.)	Appendix J, Task Force Report on Revolving Funds and Business Enterprises, which includes: (*a*) Summary of Recommendations, by Haskins & Sells. (*b*) Financial Surveys of Government Enterprises, by Haskins & Sells.	None.
	Appendix R, Task Force Report on Lending Agencies, which includes Recommendations on Government Lending and Associated Activities, by Price, Waterhouse & Co.	(Lending agencies) Factual reports.[6] Farmers Home Administration and predecessor agencies. Farm Credit Administration and its supervised agencies. Export-Import Bank, Federal Deposit Insurance Corporation, auxiliary Government lending activities. Reconstruction Finance Corporation and subsidiaries. Housing and Home Finance Agency and its constituent agencies.
	Appendix K, Task Force Report on Water Resources Projects, which includes Certain Aspects of Power, Irrigation and Flood Control Projects, by A. B. Roberts, Cleveland, Ohio.	None.

See footnotes at end of table, p. 140.

Reports to the Congress by the Commission on Organization of the Executive Branch of the Government—Continued

Commission reports, number and title [1]	Supporting documents published as appendixes	Supporting documents not published
Report No. 18:		
Pt. 1. Overseas Administration	None	The Central Administration Organization for Territories and Dependencies of United States, by Emerson and Rivlin.
Pt. 2. Federal-State Relations	None	(Federal-State Relations:) [7] Report on Federal-State Relations, by Council of State Governments, Frank Bane, director. [7] Appendix to Report on Federal-State Relations, by Council of State Governments. [7] Report of Task Force Committee on Federal-State Relations, T. J. Coolidge, chairman. [7] Development of Governmental Powers in the United States, by Stanford Schewel. [7] State-Federal Overlapping Taxes, by Roswell Magill.
Pt. 3. Federal Research (Filed with Congress Mar. 25, 1949.) (H. Doc. No. 140.)	None	None.
Concluding report (Filed with Congress May 26, 1949.) (H. Doc. No. 197.)	None	None.

[1] Reports are not numbered. The numbers used apply to order of issuance only.
[2] These appendixes are being reprinted as a House document by the House Committee on Veterans' Affairs.
[3] The Commission's recommendations concerning Federal Transportation Activities appear in the Commission's Reports on the Department of Commerce and on Regulatory Commissions. The Task Force Study on Transportation was filed with the Department of Commerce Report.
[4] Interior Department Report contains recommendations concerning certain agricultural conservation functions which are discussed in Task Force Report Appendix M, filed with Department of Agriculture Report, Feb. 22, 1949.
[5] All by Brookings Institution.
[6] All by Price, Waterhouse & Co.
[7] Printed for use of Subcommittee on Intergovernmental Relations, Senate Committee on Expenditures in the Executive Departments.

(NOTE.—All of the reports of the Hoover Commission, and supporting appendixes and documents, were referred to the Committee on Expenditures in the Executive Departments in the Senate. In the House of Representatives, Report No. 4 was referred to the Committee on Post Office and Civil Service, Report No. 5 to the Committee on Foreign Affairs, Report No. 6 to the Committee on Agriculture; Report No. 8 to the Committee on Armed Services, Report No. 9 to the Committee on Veterans' Affairs, and Report No. 14 to the Committee on Public Lands, with the remainder being referred to the House Committee on Expenditures in the Executive Departments.)

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